

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB APC 18-06 Public Safety  
**SPONSOR(S):** Appropriations Committee  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Appropriations Committee		Kramer	Leznoff

### SUMMARY ANALYSIS

On the afternoon of February 14, 2018, a former student shot and killed fourteen students and three staff members at Marjory Stoneman Douglas High School in Parkland, Florida. To increase communication between various entities that interact with schools and students, better identify students in need of mental health treatment and increase access to such treatment, and to help prevent mass violence incidents in the future, the bill:

- Creates the School Safety Awareness Program within the Department of Law Enforcement (FDLE) to receive early, anonymous, information about suspicious or concerning behavior;
- Allows Crime Stoppers Funds to be used for anonymous reporting systems in student crime watch programs;
- Establishes the Office of Safe Schools to serve as a central repository for best practices, examine the effectiveness of recommendations produced using the current self-assessment tool and develop a School Safety Specialist Training Program. Each district school safety specialist must provide school safety training, conduct active shooter drills at least as often as other drills, and annually conduct a security risk self-assessment;
- Establishes a threat assessment team at each school consisting of a counselor, teacher, administrator, and school resource officer to determine when a student poses a threat of violence to themselves or others and engage behavioral health crisis resources if necessary;
- Requires school boards to partner with local law enforcement to address school security needs and increase law enforcement presence, and requires each school district to coordinate with public safety agencies to development emergency procedures and designate a school safety specialist who must coordinate with local public safety agencies;
- Requires revisions to zero tolerance policies making alternatives to suspension or referral to law enforcement available only if the student receives appropriate mental health services, and if such alternatives pose no law enforcement threat;
- Doubles the number of school resource officers, funds them, and requires crisis intervention training for all officers;
- Authorizes sheriffs and police chiefs police to appoint law enforcement-trained persons who meet specific requirements exceeding those of similar programs nationally, to serve as school marshals;
- Requires all school personnel to receive, and funds, youth mental health first aid training;
- Funds additional mobile crisis teams and community action teams to create statewide access;
- Creates a categorical allocation and provides funding for mental health treatment in schools;
- Requires state and local agencies serving students with or at risk of mental illness to coordinate efforts, allows sharing of confidential information, and requires a court to notify a school district when referring a student to mental health services; and
- Creates the Marjory Stoneman Douglas High School Public Safety Commission to investigate failures that allowed mass incidents of violence in Florida and make recommendations to prevent such incidents in the future.

In addition, the bill:

- Prohibits a licensed importer, manufacturer or dealer from selling a firearm to a person under age 21, with exceptions;
- Expands the mandatory 3-day waiting period for handguns to all firearms sold at retail with certain exceptions;
- Prohibits a person from transferring, distributing, selling, or keeping for sale, offering for sale, possessing, or giving to another person a bump-fire stock and prohibits importing a bump-fire stock into the state;
- Authorizes a law enforcement agency to seize any firearm and ammunition in the possession, custody, or control of a person involuntarily examined under the Baker Act who has made a credible threat of violence against another person. Provides for the retention of the firearm and ammunition for an additional 60 days if certain criteria are met.

The bill appropriates a total of \$200 million in recurring general revenue funds and \$200 million in nonrecurring general revenue funds and provides appropriations to the Florida Department of Law Enforcement, the Department of Education, and the Department of Children and Families, for multiple purposes. See Fiscal Comments for details.

The effective date of the bill is upon becoming law.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** pcb06.APC

**DATE:** 2/26/2018

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

##### Marjory Stoneman Douglas High School Mass Violence Incident

On the afternoon of February 14, 2018, at 2:06 p.m., a nineteen-year old male former student ordered an Uber ride from his home in Broward County to Marjory Stoneman Douglas High School, in Parkland, Florida.<sup>1</sup> He arrived at the school at 2:19 p.m., carrying a backpack and a duffel bag.<sup>2</sup> He was wearing the school's colors, including a maroon polo shirt with the logo of the Marjory Stoneman Douglas High School Eagles on the sleeve.<sup>3</sup>

Upon arrival, he immediately entered the "freshmen building," a three-story building on the school's campus containing thirty classrooms was occupied by about 900 students and 30 teachers.<sup>4</sup> Armed with an AR-15 semiautomatic rifle and multiple magazines of ammunition, he pulled the fire alarm. As students left the classrooms, he began indiscriminately shooting people on the first and second floors of the building,<sup>5</sup> in the hallway and in classrooms. Teachers and students heard the gunshots and a "code red" lockdown was implemented.<sup>6</sup> The shooting lasted six minutes, between 2:21 p.m. and 2:27 p.m. Fourteen students and three staff members were killed.

The shooter made his way up to the third floor where he eventually discarded the rifle, a vest, and ammunition in a stairwell, and blended in with fleeing students to get away. Upon his escape, the shooter walked to a nearby Walmart, where he purchased a soda at its Subway restaurant. From there, he walked to a McDonald's where he lingered until 3:01 p.m.<sup>7</sup> At about 3:40 p.m., the shooter was stopped two miles from the school by a police officer in Coral Springs and taken into custody.

##### *Background and Mental Health*

The shooter was born on September 24, 1998, in Margate, Florida, and adopted at age two. His adoptive father died during his childhood, and he spent the majority of his youth with his adoptive mother and half-brother. He was identified as developmentally delayed in 2002, when he was four years old.

Records show the shooter attended at least six schools, including Cross Creek School, a school for students with emotional programs; Dave Thomas Education Center, an alternative high school for at-risk youth; and an adult education center.<sup>8</sup>

Friends and classmates described him as weird beginning in middle school. However, as he transitioned into high school, the strange behavior escalated. Classmates said he was selling knives out of a lunchbox, posting on Instagram about guns and killing animals, and eventually even

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<sup>1</sup> News Release, Broward Sheriff's Office, *Stoneman Douglas Shooting Preliminary Timeline*, February 15, 2018, available at: <http://www.sheriff.org/PIO/News/Pages/STONEMAN-DOUGLAS-SHOOTING-TIMELINE-OF-EVENTS-.aspx>.

<sup>2</sup> Associated Press, CBS News, *Florida School Shooting Suspect Hid Among Students After Massacre*, February 15, 2018.

<sup>3</sup> Kevin Sullivan, Samantha Schmidt, and David Fahrenthold, The Chicago Tribune, *What happened in the 82 minutes between [shooter's] arrival and arrest during Florida Shooting*, February 15, 2018, available at:

<http://www.chicagotribune.com/news/nationworld/ct-82-minutes-florida-shooting-20180215-story.html>.

<sup>4</sup> Sarah Almukhtar, K.K. Rebecca Lai, Anjali Singhbi and Karen Yourish, The New York Times, *What Happened Inside the Florida School Shooting*, February 15, 2018, available at: <https://www.nytimes.com/interactive/2018/02/15/us/florida-school-shooting-map.html>.

<sup>5</sup> Id.

<sup>6</sup> Supra, FN 3.

<sup>7</sup> Supra, FN 2.

<sup>8</sup> Audra Burch, Frances Robles and Patricia Mazzei, The New York Times, *Florida Agency Investigated [Shooter] After Violent Social Media Posts*, February 17, 2018.

threatening other students.<sup>9</sup> After threatening behavior to other students, teachers were told to “keep an eye” on him and not allow him on campus with a backpack.<sup>10</sup>

Broward County Public Schools disciplinary records show that the shooter had a long history of fights with teachers, and frequently accused of using profane language with school staff.<sup>11</sup> School officials were so worried that on at least one occasion a mobile crisis unit was alerted to provide him with emergency counseling.<sup>12</sup>

In January 2017, while he was attending Marjory Stoneman Douglas High School, administrators recommended a “threat assessment” of the shooter, but it is unclear whether the assessment was performed.<sup>13</sup> He was ultimately expelled from school for disciplinary reasons.<sup>14</sup>

In addition to the warning signs exhibited in school, neighbors complained the shooter was killing squirrels with pellet guns, vandalizing property, and lurking late at night along the drainage ditches than run alongside the backyards of the homes in the neighborhood. According to neighbors, police were frequently at the shooter’s home.

Despite the concerns at school and from neighbors, the Department of Children and Families (DCF) reported only one interaction with the shooter in September 2016.<sup>15</sup> The interaction occurred following reports to the Florida Abuse Hotline of inadequate supervision and medical neglect by his adoptive mother. A DCF investigator visited the home on the same day of report, and was told he did not own any firearms and was receiving mental health services from Henderson Behavioral Center.<sup>16</sup> In addition to depression, the shooter had autism and attention-deficit hyperactivity disorder (ADHD).<sup>17</sup> He was regularly taking ADHD medication, but it is unclear whether he was taking anything for depression.<sup>18</sup> The DCF investigator reportedly wrote in the report, “he [the shooter] stated he plans to go out and buy a gun. It is unknown what he is buying the gun for.”<sup>19</sup> According to DCF, the shooter was never sent for involuntary examination under the Baker Act.<sup>20</sup>

The shooter’s mother passed away from pneumonia in November 2017. After her death, the shooter lived with a family relative in Lantana, Florida.<sup>21</sup> However, the family did not allow the shooter to continue to reside in the home because the family relative had a toddler and the shooter had guns and weapons without a gun safe.<sup>22</sup> He then moved in with another family, and he was allowed to bring his guns, under the condition they remained in a lockbox.<sup>23</sup>

#### *Calls for Law Enforcement Assistance and Reports of Concerning Behavior*

Law enforcement had more than twenty interactions with the shooter over several years.<sup>24</sup> The Broward County Sheriff has not detailed the content of the calls for assistance, but has said deputies may have

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<sup>9</sup> William Wan, Kevin Sullivan, David Weingrad, and Mark Berman, The Washington Post, *Florida Shooting Suspect [Shooter]: Guns, depression and a life in trouble*, February 15, 2018.

<sup>10</sup> Id.

<sup>11</sup> Supra, FN 8.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Department of Children and Families, DCF Records, February 19, 2018.

<sup>16</sup> Id.

<sup>17</sup> Supra, FN 8.

<sup>18</sup> Id.

<sup>19</sup> Id.

<sup>20</sup> Supra, FN 15.

<sup>21</sup> CNN, *Depressed teen’s guns didn’t raise red flags for host family of Florida shooter*, Feb. 20, 2018.

<sup>22</sup> Id.

<sup>23</sup> Richard Fausset and Serge Kovalski, The New York Times, *[Shooter], Florida Shooting Suspect, Showed Every Red Flag*, February 15, 2018.

<sup>24</sup> John Maines, Sun Sentinel, *Florida Shooting Suspect [Shooter] Showed Warning Signs for Years*, February 23, 2018.

responded to some of the calls.<sup>25</sup> The incident reports describe him as suffering from mental illness and being emotionally handicapped, and being on behavioral medication.<sup>26</sup> One report noted, "He mentioned in the past that he would like to purchase a firearm."<sup>27</sup> The emergency calls from the shooter's home to police included incidents categorized as "mentally ill person," "child/elderly abuse," "domestic disturbance," and "missing person."<sup>28</sup> At least two calls reported the shooter as missing, in 2012 and 2013.<sup>29</sup>

Law enforcement responded to the shooter's home on at least two occasions in November 2012. On the first occasion, the shooter had beaten up his brother. On a second occasion, his mother reported the shooter hit her with the plastic hose of a vacuum cleaner.<sup>30</sup> In January 2013, when he was 14-years old, police responded to a call for assistance at the home for aggressive behavior, where they handcuffed and placed him in the back of the police car. The police report indicated an involuntary examination under the Baker Act was not needed and he was released after calming down.

In February 2016, the Broward County Sheriff's Office received an anonymous call that the shooter had threatened on Instagram to shoot up his school and posted a picture of him with guns. The information was given to his school resource officer with no further action detailed. In September 2016, law enforcement was again called out to his home for aggressive behavior towards his mother and for slashing his arms.<sup>31</sup> A counselor from Henderson Behavioral Center, where the shooter was a patient, deemed him to not be a threat to anyone or himself at that time.

In September 2017, a blogger in Mississippi warned the Federal Bureau of Investigation (FBI) that a commenter with a screen name similar to that of the shooter wrote on his YouTube page: "Im going to be a professional school shooter."<sup>32</sup> The blogger, Ben Bennight, took a screenshot and flagged it to YouTube, which removed the post.<sup>33</sup> FBI agents interviewed Bennight about the incident. The agents concluded that no other information was included in the comment to indicate a particular time or location of a possible incident, or to lead to the identity of the person who posted the conduct.<sup>34</sup> As a result, the post was not acted upon further by the FBI.

In November 2017, the family with whom the shooter was living placed an emergency call to law enforcement to express concerns that the shooter hid a gun in the backyard. It is unknown if any action was taken as a result of the incident.

On January 5, 2018, an unidentified person who was close to the shooter contacted the FBI to report his possession of guns, desire to kill people, and potential to carry out a school shooting.<sup>35</sup> The call went to a center in West Virginia instead of a local field office, and the information was never relayed to FBI agents in Florida.<sup>36</sup>

Despite the shooter's numerous encounters with law enforcement, his behavior never resulted in criminal charges or involuntary commitment to mental health services. As a result, he was able to lawfully purchase an AR-15 rifle in February 2017, and use it during the shooting on February 14, 2018.

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<sup>25</sup> Id.

<sup>26</sup> Supra, FN 21.

<sup>27</sup> Id.

<sup>28</sup> Id.

<sup>29</sup> Id.

<sup>30</sup> Id.

<sup>31</sup> Id.

<sup>32</sup> Supra, FN 23.

<sup>33</sup> Id.

<sup>34</sup> Id.

<sup>35</sup> Ari Shapiro, NPR All Things Considered, *Former FBI Assistant Director on What Went Wrong with Tip About Florida Shooter*, February 20, 2018, available at: <https://www.npr.org/2018/02/20/587375707/former-fbi-assistant-director-on-what-went-wrong-with-tip-about-florida-shooter>.

<sup>36</sup> Id.

## *Law Enforcement Response to Incident*

Broward County Sheriff's Deputy Scott Peterson was the armed school resource officer (SRO) at Marjory Stoneman Douglas High School. Initial reports following the shooting said that Deputy Peterson was at another part of the campus when the shooting began. After reviewing video footage, Sheriff Scott Israel, the Broward County Sheriff, during a press conference, revealed that Deputy Peterson was outside for upwards of four minutes and did not enter the building.<sup>37</sup> When asked what the deputy should have done, Sheriff Israel said Peterson should have "went in. Addressed the killer. Killed the killer."<sup>38</sup> According to Sheriff Israel, the video footage showed "he did none of that."<sup>39</sup>

Coral Springs police officers were some of the first, if not the first, responders to arrive at the scene. Reports say they found Deputy Peterson, along with three other sheriff's deputies, had not entered the building.<sup>40</sup> The deputies had their pistols drawn and were behind their vehicles, and none of them had gone into the school. It is unclear whether the shooter was still in the building when they arrived.<sup>41</sup>

## Firearm Safety

The Florida Constitution guarantees the right of the people to keep and bear arms in self-defense.<sup>42</sup> Generally, Florida law authorizes a person to own, possess, and lawfully use firearms and other weapons<sup>43</sup> without a license if:

- The person is not statutorily prohibited from possession a firearm or weapon, and
- Such ownership, possession, or use occurs in a lawful manner and location.<sup>44</sup>

## *Persons Prohibited from Purchasing a Firearm*

Federal law prohibits an individual from purchasing or possessing a firearm if he or she:

- Has been convicted of a felony;
- Is a fugitive of justice;
- Is an unlawful user of or addicted to any controlled substance;
- Has been adjudicated mentally defective or committed to a mental institution;
- Is illegally or unlawfully in the U.S., or has been granted a nonimmigrant visa;
- Received a dishonorable discharge from the Armed Forces;
- Has renounced U.S. citizenship;
- Is under an injunction, restraining order, or protective order restraining certain contact with an intimate partner or child; or
- Has been convicted of a misdemeanor crime of domestic violence.<sup>45</sup>

Additionally, a person under indictment or information for a felony may not receive a firearm.<sup>46</sup> A person who sells a firearm knowing or having reasonable cause to believe that the buyer is prohibited from purchasing a firearm under federal law may be prosecuted and imprisoned for up to 10 years.<sup>47</sup> A

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<sup>37</sup> Stephen Hobbs, Scott Travis and Lisa J. Huriash, Sun Sentinel, Stoneman Douglas cop resigns; sheriff says he should have 'killed the killer', February 23, 2018, available at: <http://www.sun-sentinel.com/local/broward/parkland/florida-school-shooting/fl-florida-shooting-sro-20180222-story.html>.

<sup>38</sup> Id.

<sup>39</sup> Deputy Peterson was suspended for his failure to act during the shooting. He later resigned, and subsequently retired. Id.

<sup>40</sup> Jake Tapper, CNN, *Sources: Coral Springs police upset at some Broward deputies for not entering school*, February 24, 2018, available at: <https://www.cnn.com/2018/02/23/politics/parkland-school-shooting-broward-deputies/index.html>.

<sup>41</sup> Id.

<sup>42</sup> FLA. CONST. art. 1, s. 8.

<sup>43</sup> Section 790.001(13), F.S., defines "weapon" as "any dirk, knife, metallic knuckles, slugshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon except a firearm or a common pocketknife, plastic knife, or blunt-bladed table knife."

<sup>44</sup> S. 790.25, F.S.

<sup>45</sup> 18 USC § 922(g).

<sup>46</sup> 18 USC § 922(n).

<sup>47</sup> 18 USC §§ 922(d) & 924(3).

person who purchases or possesses a firearm in violation of the federal prohibitions may be imprisoned for up to 10 years.<sup>48</sup>

Florida law prohibits an individual from purchasing a firearm if he or she:

- Has been convicted of a felony;<sup>49</sup>
- Has been convicted of a misdemeanor crime of domestic violence;<sup>50</sup>
- Has had an adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence, unless 3 years have elapsed since all sentence conditions were fulfilled or the record has been expunged;<sup>51</sup>
- Has been adjudicated mentally defective or committed to a mental institution;<sup>52</sup>
- Has had an injunction for protection against domestic violence or repeat violence entered against him or her;<sup>53</sup> or
- Is a minor.<sup>54</sup>

If a person has been arrested for a dangerous crime or certain enumerated offenses, or has been indicted for or charged by information with a felony, the person is conditionally non-approved to purchase a firearm, pending resolution of that matter.<sup>55</sup>

Florida law imposes criminal penalties for possession of a firearm by a convicted felon or delinquent,<sup>56</sup> possession by a minor,<sup>57</sup> and failure to surrender a firearm pursuant to an injunction.<sup>58</sup> Florida law does not specifically prohibit or criminalize possession of a firearm by a person meeting other purchase disqualifying criteria.

#### *Persons Adjudicated Mentally Defective or Committed to a Mental Institution*

An adjudication of mental defectiveness is a determination by a court that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease, is a danger to himself or herself or to others or lacks the mental capacity to contract or manage his or her own affairs.<sup>59</sup> Adjudications of mental defectiveness may include a finding of incapacity for guardianship purposes, acquittal by reason of insanity, or a finding that a criminal defendant is not competent to stand trial.<sup>60</sup>

A person is prohibited from purchasing a firearm if he or she was involuntarily committed to a mental health institution.<sup>61</sup> The involuntary nature of such a commitment may include inpatient placement,<sup>62</sup> outpatient placement,<sup>63</sup> assessment and stabilization,<sup>64</sup> or substance abuse treatment.<sup>65</sup> The commitment may be for mental defectiveness, mental illness, or substance abuse.<sup>66</sup> The term also includes voluntary commitment under very specific circumstances:

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<sup>48</sup> 18 USC § 924(3).

<sup>49</sup> S. 790.065(2)(a)1., F.S.

<sup>50</sup> S. 790.065(2)(a)2., F.S.

<sup>51</sup> S. 790.065(2)(a)3., F.S.

<sup>52</sup> S. 790.065(2)(a)4., F.S.

<sup>53</sup> S. 790.065(2)(c)1., F.S.

<sup>54</sup> S. 790.18, F.S.

<sup>55</sup> S. 790.065(2)(c)1. & 8., F.S.

<sup>56</sup> S. 790.23, F.S. (possession of a firearm by a convicted felon is a second degree felony in most circumstances and a first degree felony punishable by life in certain instances).

<sup>57</sup> S. 790.22, F.S.

<sup>58</sup> S. 741.31(4)(a)1., F.S.

<sup>59</sup> S. 790.065(2)(a)4.a., F.S.

<sup>60</sup> Id.

<sup>61</sup> S. 790.065(2)(a)4.b.(I), F.S.

<sup>62</sup> S. 394.467, F.S.

<sup>63</sup> S. 394.4655, F.S.

<sup>64</sup> S. 397.6818, F.S.

<sup>65</sup> S. 397.6957, F.S.

<sup>66</sup> S. 790.065(2)(a)4.b., F.S.

- The person must have been involuntarily examined under the Baker Act;<sup>67</sup>
- The examining physician must have found that the person is an imminent danger to himself or herself or others;
- The examining physician must certify that if the person did not agree to voluntary treatment, a petition for involuntary treatment would have been filed;
- The person must receive written notice of the physician's finding and certification and acknowledge in writing that he or she may be prohibited from buying firearms and from applying for or retaining a concealed weapons license as a result of agreeing to voluntary treatment; and
- A judge must review the record and order the record be submitted to FDLE.<sup>68</sup>

Notably, a person is not prohibited from purchasing a firearm solely by virtue of being involuntarily examined under the Baker Act, which may last up to 72 hours.<sup>69</sup> The court must order further commitment following the involuntary examination for the person be considered committed.<sup>70</sup>

### *Background Checks*

The Brady Handgun Violence Prevention Act of 1993 (Brady Act) requires all licensed dealers, importers, and manufacturers to run a criminal background check on a prospective firearm transferee.<sup>71</sup> The Brady Act required the U.S. Attorney General to establish a National Instant Criminal Background Check System (NICS) to facilitate these background checks.<sup>72</sup> A licensee may either contact the FBI directly or a designated state Point-of-Contact (POC) to conduct the check.<sup>73</sup>

In Florida, the Department of Law Enforcement (FDLE) is the designated POC through which licensed dealers, importers, or manufacturers must run a background check. Before a licensee may sell or deliver a firearm to a non-licensee, the seller must:

- Obtain a completed criminal history check form<sup>74</sup> from the potential buyer, which includes his or her name, date of birth, gender, race, and social security number or other identification number.
- Inspect proper identification that includes a photograph of the potential buyer.
- Collect a fee for processing the criminal history check.
- Request, via telephone call, FDLE to conduct a check of the information as reported and reflected in the Florida Crime Information Center and NICS.
- Receive a unique approval number for the inquiry from FDLE and record such number and the date on the criminal history check form.<sup>75</sup>

When conducting the criminal background check, FDLE queries three national databases and two state level databases.<sup>76</sup> The national databases are part of NICS, maintained by the FBI, and include the:

- Interstate Identification Index (III), a database of criminal history record information;
- National Crime Information Center (NCIC), which includes information on persons subject to civil protection orders and arrest warrants; and
- NICS Index, which includes the information contributed by federal and state agencies identifying persons prohibited from possessing firearms who are not included in the III or NCIC, such as persons with a prohibiting mental health history or who are illegal or unlawful aliens.<sup>77</sup>

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<sup>67</sup> S. 394.463, FS.

<sup>68</sup> S. 790.065(2)(a)4.b.(II), F.S.

<sup>69</sup> S. 394.463, F.S.

<sup>70</sup> See *infra*, Involuntary Examination under the Baker Act.

<sup>71</sup> Pub. L. 103-159; 18 USC § 922(t).

<sup>72</sup> 28 CFR § 25.1.

<sup>73</sup> Federal Bureau of Investigation, *About NICS*, available at: <https://www.fbi.gov/services/cjis/nics/about-nics> (last viewed February 24, 2018).

<sup>74</sup> The form is created by the United States Treasury Department's Bureau of Alcohol, Tobacco, and Firearms. Rule 11C-6.009, F.A.C. A copy of the form is available online at <https://www.atf.gov/file/61446/download>.

<sup>75</sup> S. 790.065(1)(a), F.S.

<sup>76</sup> Email from Department of Law Enforcement staff, *RE: FDLE Processing of Mental Health Adjudications and Commitments* (February 21, 2018) (on file with Judiciary Committee).

At the state level, FDLE checks the Florida Crime Information Center (FCIC) and the Computerized Criminal History Repository (CCH), which is the central database of Florida criminal records.<sup>78</sup> FDLE then advises the licensee whether he or she may proceed with the sale. The databases provide an immediate response on most queries, usually within a matter of seconds.<sup>79</sup>

The Florida Constitution authorizes a county to require a criminal history records check for any firearm purchases within the county.<sup>80</sup>

As of 2015, there had been approximately 197 million applications for firearm transfers or permits that were subject to a background check nationally, with over 3 million applications denied since the enactment of the Brady Act.<sup>81</sup> In 2015, approximately 17 million applications for firearms transfers were received, and 1.4 percent were denied nationally.<sup>82</sup> Florida saw 885,086 applications, with 12,632 denials, which is in line with the national average at about 1.4 percent.<sup>83</sup>

Nationally, the most common reason for denying a firearm transfer was a felony conviction, at approximately 35.8 percent of denials in 2015. Other common reasons for denial include fugitive status (13.4 percent), a state law prohibition (13 percent), drug user or addict status (7.7 percent), misdemeanor domestic violence conviction (7.5 percent), and mental health adjudication or commitment (5.9 percent).<sup>84</sup>

### *Who May Sell Firearms*

To engage in the business of firearm or ammunition importation, manufacture, or dealing, a person must be licensed by the U.S. Attorney General.<sup>85</sup> A person is engaged in the business:

- As a manufacturer, when a person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms or ammunition manufactured;
- As a dealer, when a person who devotes time, attention, and labor to dealing in or repairing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale or repair of firearms; or
- As an importer, when a person who devotes time, attention, and labor to importing firearms or ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported.<sup>86</sup>

A person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his or her personal collection of firearms is not “engaged in the business” and therefore does not require a license to conduct sales.<sup>87</sup> An unlicensed seller may not sell or deliver a firearm to a person:

- Who resides in a different state than the state the seller lives in,<sup>88</sup> or

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<sup>77</sup> Federal Bureau of Investigation, *National Instant Criminal Background Check System Posts NICS Index Data* (March 18, 2016), available at: <https://www.fbi.gov/news/pressrel/press-releases/national-instant-criminal-background-check-system-posts-nics-index-data> (last viewed February 24, 2018).

<sup>78</sup> Email from Department of Law Enforcement staff, *RE: FDLE Processing of Mental Health Adjudications and Commitments* (February 22, 2018) (on file with Judiciary Committee).

<sup>79</sup> *Supra*, FN 77.

<sup>80</sup> Fla. Const., art. VIII, sec. 5(b).

<sup>81</sup> Bureau of Justice Statistics, *Background Checks for Firearm Transfers, 2015 – Statistical Tables* (November 30, 2017), available at: <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=6126> (last viewed February 24, 2018).

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> 18 USC §§ 922(a) & 923(a).

<sup>86</sup> 18 USC § 921(a)(21).

<sup>87</sup> *Id.*

<sup>88</sup> 18 USC 922(a)(3).

- Whom he or she knows or has reasonable cause to believe is disqualified from purchasing a firearm.<sup>89</sup>

Requirements for sales by licensed and unlicensed sellers differ under federal and Florida law, with stricter requirements typically placed on licensees.

### *Age Requirements for Purchase and Possession of a Firearm*

Under federal law, a person must be 21 years old to purchase a handgun or 18 years old to purchase a shotgun or rifle from a licensed dealer, importer, or manufacturer.<sup>90</sup> Florida law prohibits a person, whether licensed or not, from selling a firearm to a minor under 18 years old, making the minimum purchase age for all types of firearms, including handguns,<sup>91</sup> 18 when purchased from an unlicensed seller in Florida. It is a third degree felony, punishable by up to five years in prison and a \$5,000 fine,<sup>92</sup> for a person other than a licensed dealer to sell or transfer a firearm to a minor,<sup>93</sup> and a second degree felony, punishable by up to 15 years in prison and a \$10,000 fine,<sup>94</sup> for a licensed dealer to sell or transfer a firearm to a minor.

A minor generally may not possess a firearm unless:

- The firearm is unloaded at his or her home;
- He or she is engaged in a lawful hunting activity and is:
  - At least 16 years old, or
  - Supervised by an adult;
- He or she is engaged in a lawful marksmanship competition or practice or other lawful recreational shooting activity and is:
  - At least 16 years old, or
  - Supervised by an adult with the consent of the minor's parent or guardian; or
- The firearm is unloaded and being transported directly to or from a lawful hunting activity or recreational shooting activity.<sup>95</sup>

A minor who unlawfully possesses a firearm commits:

- For a first offense, a first degree misdemeanor, punishable by up to one year of county jail and a \$1,000 fine, if treated as an adult,<sup>96</sup> or one year of juvenile commitment or supervision;<sup>97</sup> or
- For a second or subsequent offense, a third degree felony, punishable by up to five years in prison and a \$5,000 fine,<sup>98</sup> if treated as an adult, or five years of juvenile commitment or supervision.<sup>99</sup>

### *Wait Periods between Sale and Delivery of a Handgun*

In Florida, there is a mandatory 3-day waiting period, excluding weekends and legal holidays, between the sale and delivery of a handgun by a retailer, except that a concealed weapons licensee<sup>100</sup> or a

<sup>89</sup> 18 USC 922(d).

<sup>90</sup> 18 USC 922(b)(1).

<sup>91</sup> The federal age requirement applies only to sales by licensed dealers, importers, or manufacturers. 18 USC 922(b)(1).

<sup>92</sup> SS. 775.082 & 775.083, F.S.

<sup>93</sup> S. 775.16, F.S.

<sup>94</sup> SS. 775.082 & 775.083, F.S.

<sup>95</sup> S. 790.22(c), F.S.

<sup>96</sup> SS. 775.082 & 775.083, F.S.

<sup>97</sup> S. 985.435(6), F.S. (If supervision or a program of community service is ordered by the court for a juvenile, the duration of such supervision or program must be consistent with any treatment and rehabilitation needs identified for the child and may not exceed the term for which sentence could be imposed if the child were committed for the offense, except that the duration of such supervision or program for an offense that is a misdemeanor of the second degree, or is equivalent to a misdemeanor of the second degree, may be for a period not to exceed 6 months.)

<sup>98</sup> SS. 775.082 & 775.083, F.S.

<sup>99</sup> S. 790.22(5)(a), F.S.

<sup>100</sup> S. 790.06, F.S.

person trading in another handgun may bypass the waiting period.<sup>101</sup> A retailer is a person engaged in the business of making sales at retail to consumers. A retailer or employee of a retailer who unlawfully delivers a handgun before the 3-day waiting period has expired commits a third degree felony,<sup>102</sup> punishable by up to 5 years in prison and a \$5,000 fine.<sup>103</sup>

There is no waiting period between sale and delivery for other types of firearms; however, the Florida Constitution authorizes a county to impose a 3- to 5-day waiting period, excluding weekends and legal holidays, between the sale and delivery of a firearm within the county by ordinance.<sup>104</sup> Pinellas,<sup>105</sup> Hillsborough,<sup>106</sup> Miami-Dade,<sup>107</sup> Broward,<sup>108</sup> Palm Beach,<sup>109</sup> Sarasota,<sup>110</sup> and Volusia<sup>111</sup> counties have ordinances imposing additional waiting periods on firearm sales.

There is no federal waiting period to purchase a firearm.

### *License to Carry a Concealed Firearm*

Florida does not require a license or permit to purchase or possess a firearm. However, unless exempted, a person may not carry a concealed firearm or weapon without a license issued by the Department of Agriculture and Consumer Services (DACS).<sup>112</sup> There are over 1.8 million licenses to carry a concealed firearm or weapon in Florida.<sup>113</sup> DACS is required to issue a license to any applicant who:

- Is at least 21 years old;
- Does not suffer from a physical infirmity that prevents the safe handling of a weapon or firearm;
- Has not been committed for the abuse of a controlled substance;
- Does not habitually use alcohol or other substances to the extent normal faculties are impaired;
- Desires the legal means to carry a concealed weapon in self-defense;
- Demonstrates competence with a firearm;
  - A copy of a Certificate of Completion or similar document from any of the following courses or classes demonstrates the requisite competence:
    - A hunter education or hunter safety course approved by the Fish and Wildlife Conservation Commission or a similar agency in another state;
    - A National Rifle Association (NRA) firearms safety or training course;
    - A firearms safety or training course or class available to the general public offered by a law enforcement agency, junior college, college, or private or public institution or organization or firearms training school, using instructors certified by the NRA, the Criminal Justice Standards and Training Commission, or DACS;
    - Any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement; or
    - Any firearms training or safety course or class conducted by a state-certified instructor or by an instructor certified by the NRA.
- Has not received a withhold of adjudication for a felony in the preceding 3 years; and

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<sup>101</sup> S. 790.0655, F.S.

<sup>102</sup> S. 790.0655(3)(a), F.S.

<sup>103</sup> SS. 775.082 & 775.083.

<sup>104</sup> FLA. CONST. Art. VIII, s. 5(b).

<sup>105</sup> S. 86-88, Pinellas County Code of Ordinances.

<sup>106</sup> S. 36-84, Hillsborough County Code of Ordinances.

<sup>107</sup> S. 21-20.18, Miami-Dade County Code of Ordinances.

<sup>108</sup> S. 18-96, Broward County Code of Ordinances.

<sup>109</sup> S. 28-23, Palm Beach County Code of Ordinances.

<sup>110</sup> S. 86-1, Sarasota County Code of Ordinances.

<sup>111</sup> S. 78-1, Volusia County Code of Ordinances.

<sup>112</sup> S. 790.01, F.S.

<sup>113</sup> Florida Department of Agriculture and Consumer Services, *Number of Licenses by Type As of January 31, 2018*, available at: [http://www.freshfromflorida.com/content/download/7471/118627/Number\\_of\\_Licensees\\_By\\_Type.pdf](http://www.freshfromflorida.com/content/download/7471/118627/Number_of_Licensees_By_Type.pdf) (last viewed February 24, 2018).

- Is not prohibited from purchasing or possessing a firearm under federal or Florida law.<sup>114</sup>

In fiscal year 2016-17, there were:

- 116,469 applications for a new license received;
- 114,730 new licenses issued;
- 5,402 applications denied, 2,701 of which due to applicant ineligibility;
- 1,089 licenses revoked;
- 3,039 licenses suspended for a disqualifying arrest; and
- 984 licenses suspended for a domestic violence injunction.<sup>115</sup>

Carrying a concealed firearm without a license or exemption is a third degree felony, punishable by up to five years in prison and a \$5,000 fine.<sup>116</sup> Carrying any other concealed weapon without a license or exemption is a first degree misdemeanor, punishable by up to one year in jail and a \$1,000 fine.<sup>117</sup>

### *Firearm Regulation by Type*

The federal Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) heavily regulates the following types of firearms:

- Machine guns,<sup>118</sup> which are explicitly prohibited from sale or purchase but may be possessed under certain circumstances;
- Short-barreled shotguns;
- Short-barreled rifles;
- Destructive devices, e.g. rocket launchers and large bore firearms;
- Silencers; and
- Any other weapon (AOW), a catch-all category that captures improvised and disguised firearms.<sup>119</sup>

Federal firearms law specifically prohibits transactions and possession of certain types of firearms, including:

- Transfer or possession of a machine gun, with a narrow exception;<sup>120</sup>
- Manufacture, importation, sale, or possession of any firearm not detectable by security devices;<sup>121</sup> and
- Possession of a firearm not registered as required by the National Firearms Act.<sup>122</sup>

Florida law additionally prohibits the following types of firearms or ammunition:

- Short-barreled rifles;<sup>123</sup>
- Short-barreled shotguns;<sup>124</sup>
- Machine guns;<sup>125</sup> and
- Armor-piercing or exploding ammunition, dragon's breath shotgun shells, bolo shells, and flechette shells.<sup>126</sup>

<sup>114</sup> S. 790.06(2), F.S.

<sup>115</sup> Supra, FN 113.

<sup>116</sup> S. 790.01(2), F.S.; SS. 775.082 & 775.083, F.S.

<sup>117</sup> S. 790.01(1), F.S., SS. 775.072 & 775.083, F.S.

<sup>118</sup> "Machinegun" means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term also includes the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

<sup>119</sup> 26 USC. § 5845; 27 CFR § 479.11.

<sup>120</sup> 18 USC § 922(o).

<sup>121</sup> 18 USC § 922(p).

<sup>122</sup> 26 USC § 5861(d).

<sup>123</sup> S. 790.221, F.S.

<sup>124</sup> Id.

<sup>125</sup> Id.

## *Regulation of Automatic Firearms*

Florida law uses the term “machine gun” to refer to automatic firearms.<sup>127</sup> Specifically, a “machine gun” is defined as any firearm that shoots, or is designed to shoot, automatically more than one shot, without manually reloading, by a single function of the trigger.<sup>128</sup> Possession of a machine gun is prohibited under state law unless lawfully owned and possessed under provisions of federal law.<sup>129</sup>

Federal law similarly defines a machine gun as “any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger.”<sup>130</sup> Federal law further provides that the term machine gun includes “any part designed” to convert a firearm into a machine gun. Machine guns are regulated by the 1934 National Firearms Act<sup>131</sup> and the 1968 Gun Control Act, as amended by the 1986 Firearms Owners' Protection Act.<sup>132</sup> The lawful transfer and possession of a machine gun generally requires:

- Filing a transfer application with the ATF and paying a transfer tax;
- Getting ATF approval; and
- Registering the firearm in the new owner's name.<sup>133</sup>

The only machine guns that may be transferred and possessed under federal law are machine guns that were lawfully manufactured and possessed prior to May 1986.<sup>134</sup>

## *Bump-Fire Stocks*

A bump-fire stock is a piece of plastic or metal that is attached to a semiautomatic rifle to speed up the rate of fire. The device allows a shooter to fire dozens of rounds in seconds, faster than manual trigger-pulling, by harnessing the gun's natural recoil. In October 2017, Las Vegas shooter Stephen Paddock used guns equipped with bump-fire stocks to carry out the deadliest shooting in modern American history.

In 2010, the ATF determined that using a bump-fire stock did not make a gun fully automatic because the trigger of a rifle equipped with the device still had to be engaged every time the weapon was fired.<sup>135</sup> In addition, ATF found that a bump-fire stock device was a firearm part, not a machine gun, and therefore not regulated as a firearm under the Gun Control Act or National Firearms Act.<sup>136</sup>

## *Regulation of Bump-Fire Stocks in Other States*

California is the only state to explicitly restrict sale of bump-fire stock devices, referred to in the California Penal Code as a multiburst trigger activator.<sup>137</sup> State law defines a multiburst trigger activator to mean:

- A device designed or redesigned to be attached to a semiautomatic firearm, which allows the firearm to discharge two or more shots in a burst by activating the device; or

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<sup>126</sup> S. 790.31, F.S.

<sup>127</sup> S. 790.001(9), F.S.

<sup>128</sup> Id.

<sup>129</sup> S. 790.221, F.S.

<sup>130</sup> 26 U.S.C. § 5845(b).

<sup>131</sup> 26 U.S.C. § 5801.

<sup>132</sup> 18 U.S.C. § 921.

<sup>133</sup> Bureau of Alcohol, Tobacco, and Firearms, Transfers of NFA Firearms, <https://www.atf.gov/firearms/docs/atf-national-firearms-act-handbook-chapter-9/download>.

<sup>134</sup> 18 USC §922(o).

<sup>135</sup> Ann Givens, *The Trace, ATF Official Who Evaluated the Bump Stock's Legality Pushes Back Against Critics*, October 10, 2017, available at: <https://www.thetrace.org/rounds/atf-bump-stock-evaluation-legal-machine-gun/>.

<sup>136</sup> Stephen Gutowski, *The Washington Free Beacon, ATF Explains Bump Fire Stock Approval, Won't Say if Is Reconsidering Legality of Device*, October 7, 2017, available at: <http://freebeacon.com/issues/atf-explains-bump-fire-stock-approval-wont-say-reconsidering-legality-device/>.

<sup>137</sup> Ann. Cal. Penal Code § 16930.

- A manual or power-driven trigger activating device constructed and designed so that when attached to a semiautomatic firearm it increases the rate of fire of that firearm.<sup>138</sup>

Any person in California who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any multiburst trigger activator may be punished by up to one year in county jail.<sup>139</sup>

New York penalizes any person who possesses any machine gun or any other firearm or weapon simulating a machine gun and which is adaptable for such use.<sup>140</sup> As used in New York law, machine gun means a weapon of any description, irrespective of size, by whatever name known, loaded or unloaded, from which a number of shots or bullets may be rapidly or automatically discharged from a magazine with one continuous pull of the trigger and includes a sub-machine gun.<sup>141</sup> However, because New York only prohibits weapons simulating a machine gun, it is legal in the state to possess an unattached bump-fire stock.<sup>142</sup>

Minnesota bans the use of trigger activators. As defined in state law, the term means a removable manual or power-driven trigger activating device constructed and designed so that, when attached to a firearm, the rate at which the trigger may be pulled increases and the rate of fire of the firearm increases to that of a machine gun.<sup>143</sup> However, because semiautomatic rifles with bump-fire stocks are slightly lower than automatic guns, Minnesota law is unclear if bump-fire stocks are prohibited.<sup>144</sup>

#### Involuntary Examination under the Baker Act

In 1971, the Legislature passed the Florida Mental Health Act (also known as “The Baker Act”<sup>145</sup>), codified in part I of ch. 394, F.S., to address mental health needs in the state.<sup>146</sup> The Baker Act provides the authority and process for the voluntary and involuntary examination of persons who meet certain criteria, and the subsequent inpatient or outpatient placement of such individuals for treatment.

DCF administers the Baker Act through receiving facilities which are designated by DCF. The receiving facility may be public or private and provides the initial examination and short-term treatment of persons who meet the criteria under the Baker Act.<sup>147</sup> A person who requires longer term treatment may be transported to a DCF-designated treatment facility. Treatment facilities are state owned, operated, or supported hospitals, centers, or clinics that provide extended treatment and hospitalization beyond what is provided in a receiving facility.<sup>148</sup>

<sup>138</sup> Id.

<sup>139</sup> Ann. Cal. Penal Code § 32900.

<sup>140</sup> N.Y. Penal Law §§ 265.02(2) and (3).

<sup>141</sup> N.Y. Penal Law § 265.00(1).

<sup>142</sup> Jon Campbell, Democrat & Chronicle, *Are Bump Stocks Illegal in New York*, October 5, 2017, available at:

<https://www.democratandchronicle.com/story/news/politics/albany/2017/10/05/bump-stocks-illegal-new-york/106331400/>.

<sup>143</sup> M.S.A. § 609.67(d).

<sup>144</sup> Stefan Becket, CBS News, *Where are bump-fire stocks illegal?*, October 6, 2017, available at:

<https://www.cbsnews.com/news/where-are-bump-fire-stocks-illegal-feds-states-weigh-bans-after-las-vegas-shooting/>.

<sup>145</sup> “The Baker Act” is named for its sponsor, Representative Maxine E. Baker, one of the first two women from Dade County elected to office in the Florida Legislature. As chair of the House Committee on Mental Health, she championed the treatment of mental illness in a manner that would not sacrifice a patient’s rights and dignity. Baker served five terms as a member of the Florida House of Representatives from 1963-1972 and was instrumental in the passage of the Florida Mental Health Act. See University of Florida Smathers Libraries, *A Guide to the Maxine E. Baker Papers*, available at <http://www.library.ufl.edu/spec/pkyonge/baker.htm> (last visited January 22, 2018), and Department of Children and Families and University of South Florida, Department of Mental Health Law and Policy, *2014 Baker Act User Reference Guide: The Florida Mental Health Act (2014)*, available at <http://www.dcf.state.fl.us/programs/samh/mentalhealth/laws/BakerActManual.pdf> (last visited January 22, 2018).

<sup>146</sup> Chapter 71-131, s. 1, Laws of Fla.

<sup>147</sup> S. 394.455(39), F.S.

<sup>148</sup> S. 394.455(47), F.S.

Current law allows an involuntary examination if there is reason to believe a person has a mental illness and because of the illness, the person:<sup>149</sup>

- Has refused a voluntary examination after explanation of the purpose of the exam or is unable to determine for himself or herself that an examination is needed; and
- Is likely to suffer from self-neglect or substantial harm to her or his well-being, or be a danger to himself or herself or others.

A person who is subject to an involuntary examination may not be held longer than 72 hours in a receiving facility.<sup>150</sup>

Courts, law enforcement officers, and certain health care practitioners are authorized to initiate such involuntary examinations.<sup>151</sup> A circuit court may enter an *ex parte* order stating a person meets the criteria for involuntary examination.<sup>152</sup> A law enforcement officer<sup>153</sup> may take a person into custody who appears to meet the criteria for involuntary examination and transport them to a receiving facility for examination.<sup>154</sup> Health care practitioners may initiate an involuntary examination by executing the *Certificate of Professional Initiating an Involuntary Examination*, an official form adopted in rule by DCF.<sup>155</sup> The health care practitioner must have examined the person within the preceding 48 hours and state that the person meets the criteria for involuntary examination.<sup>156</sup> The Baker Act currently authorizes the following health care practitioners to initiate an involuntary examination by certificate:<sup>157</sup>

- A physician licensed under ch. 458, F.S., or ch. 459, F.S., who has experience in the diagnosis and treatment of mental and nervous disorders, or a physician employed by the United States Department of Veterans Affairs or Department of Defense.<sup>158</sup>
- A clinical psychologist, as defined in s. 490.003(7), F.S., with three years of postdoctoral experience in the practice of clinical psychology, inclusive of the experience required for licensure, or a psychologist employed by a facility operated by the United States Department of Veterans Affairs that qualifies as a receiving or treatment facility.<sup>159</sup>
- A psychiatric nurse who is certified as an advanced registered nurse practitioner under s. 464.012, who has a master's degree or a doctorate in psychiatric nursing, holds a national advanced practice certification as a psychiatric mental health advance practice nurse, and has two years of post-master's clinical experience under the supervision of a physician.<sup>160</sup>
- A mental health counselor licensed under ch. 491, F.S.
- A marriage and family therapist licensed under ch. 491, F.S.
- A clinical social worker licensed under ch. 491, F.S.

Between July 1, 2015 and June 30, 2016, there were 194,354 involuntary examinations initiated in the state. Law enforcement initiated half of the involuntary examinations (50.86 percent), followed closely

<sup>149</sup> S. 394.463(1), F.S. If the examination period ends on a weekend or a holiday, the person must be released no later than the next working day.

<sup>150</sup> S. 394.463(2)(g), F.S. For those under the age of 18, the examination must begin within 12 hours of arrival at the receiving facility.

<sup>151</sup> S. 394.463(2)(a), F.S.

<sup>152</sup> *Id.*

<sup>153</sup> "Law enforcement officer" means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency. Section 943.10(1), F.S.

<sup>154</sup> *Supra*, FN 151.

<sup>155</sup> The *Certificate of Professional Initiating an Involuntary Examination*, created by DCF, must be executed by health care practitioners initiating an involuntary examination under The Baker Act. The form contains information related to the person's diagnosis and the health care practitioner's personal observations of statements and behaviors that support the involuntary examination of such person. See rule reference in Rule 65E-5.280, F.A.C. The form is also available at:

<http://www.dcf.state.fl.us/programs/samh/MentalHealth/laws/3052b.pdf> (last visited February 24, 2018).

<sup>156</sup> S. 394.463(2)(a)3., F.S.

<sup>157</sup> *Id.*

<sup>158</sup> S. 394.455(32), F.S.

<sup>159</sup> S. 394.455(5), F.S.

<sup>160</sup> S. 394.455(35), F.S.

by mental health professionals (47.27 percent), with the remaining initiated pursuant to *ex parte* orders by judges (1.88 percent).<sup>161</sup>

### School Safety Initiatives

Several states have undertaken various measures to improve school safety and security frameworks, particularly related to identifying and intervening in safety threats before they are realized, improving interagency communication, and providing supports to students in need. A number of states have convened taskforces to identify areas for improvement, including New Jersey,<sup>162</sup> Ohio,<sup>163</sup> Massachusetts,<sup>164</sup> Connecticut,<sup>165</sup> and others.

Specific initiatives and recommendations have included:

- Establishing training requirements for school staff and students related to active shooter scenarios;<sup>166</sup>
- Establishing school safety specialist academies;
- Requiring schools to deploy threat assessment teams to identify potential threats to student safety;
- Establishing requirements for hardening school sites;
- Establishing and implementing local crisis response protocols;

At least 20 states have implemented school safety specialist programs.<sup>167</sup> Generally, such programs provide appointed school district safety specialists training through a school safety and security academy. The academy training includes national and state best practices, current resources on school safety and security, intervention prevention, and emergency preparedness planning. In addition, the academy establishes a common school safety and security vision for the state, and provides coordinated, interdisciplinary technical assistance and guidance to school districts.<sup>168</sup>

While there is value in other initiatives, there is also significant variations, capabilities, and costs as well as different strengths and limitations. Consequently, rather than mandate some initiatives more research is needed at the state and local level to determine what initiatives will be most effective given the unique needs and resources of individual school districts and the law enforcement agencies that serve them.<sup>169</sup>

### *School Safety Officers*

Several states have enacted laws to allow individuals to carry firearms as part of their employment duties.<sup>170</sup> Since 2013, Texas has authorized school districts to participate in a school marshal program.

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<sup>161</sup> Christy, A., et al., Baker Act Reporting Center, Louis de la Parte Florida Mental Health Institute, Department of Mental Health Law & Policy, University of South Florida, *Fiscal Year 2015/2016 Report Annual Report* (March 2017), available at [http://www.usf.edu/cbcs/baker-act/documents/annual\\_report.pdf](http://www.usf.edu/cbcs/baker-act/documents/annual_report.pdf) (last visited January 22, 2018).

<sup>162</sup> New Jersey School Security Task Force, *New Jersey School Security Task Force Report and Recommendations* (July 2015), available at <http://www.state.nj.us/education/schools/security/TaskForceReport.pdf>. [hereinafter referred to as *New Jersey Taskforce*]

<sup>163</sup> Ohio Attorney General, *School Safety Task Force Recommendations and Resources* (June 2013), available at <http://www.ohioattorneygeneral.gov/Files/Publications-Files/Publications-for-Schools/SchoolSafetyTaskForceReport>.

<sup>164</sup> Massachusetts School Safety and Security Task Force, *Massachusetts Task Force Report on School Safety and Security* (July 2014), available at <http://www.mass.gov/edu/docs/eoe/school-safety-security/school-safety-report.pdf>.

<sup>165</sup> Connecticut School Safety Infrastructure Council, *Report of the School Safety Infrastructure Council* (June 27, 2014), available at [http://das.ct.gov/images/1090/SSIC\\_Final\\_Draft\\_Report.pdf](http://das.ct.gov/images/1090/SSIC_Final_Draft_Report.pdf).

<sup>166</sup> *Supra*, note 162 at 12 and 17.

<sup>167</sup> *See id.* at 16.

<sup>168</sup> *See id.*

<sup>169</sup> *See id.*

<sup>170</sup> *See e.g.*, Ala. Code § 45-30-103(a), (c); Ark. Code Ann. § 5-73-119(4); Safe Carry Protection Act, § 1-6(c)(6), 2014 Ga. Laws 599, 606; Act of Apr. 16, 2013, § 9(d), 2013 Kan. Laws 551, 571; [Or. Rev. Stat. § 166.370\(3\)\(h\)](#); Act of Mar. 8, 2013, § 1, 2013 S.D. Sess. Laws 210, 210; [Tenn. Code Ann. § 49-6-815](#); Protection of Texas Children Act, 2013 Tex. Gen. Laws 1742, 1746; [Utah Code Ann. § 76-10-505.5\(4\)\(a\)](#);

The marshal program allows public school districts, open enrollment charter schools, private schools, and two-year colleges to appoint school marshals to carry firearms.<sup>171</sup>

#### *Protection of Texas Children Act*

A school marshal, approved by the Texas Commission on Law Enforcement, may act only in accordance with the written regulations adopted by the school board or school governing body and must complete training conducted by a law enforcement agency using an approved school marshal curriculum. No other course can be substituted or exempt an individual from the school marshal training course. The course requires 80 hours of training in: physical security, improving campus security, use of force, active shooter response, and weapon proficiency.<sup>172</sup> In addition, the individual must be an employee of the school, hold a valid license to carry, and pass a psychological exam.<sup>173</sup>

Two Texas school districts, Argyle and Keene,<sup>174</sup> participate in the School Marshal Program. In addition, 172 school districts in Texas allow staff or board members to carry firearms on school premises. Approximately 15 percent of these school districts have a police department and 24 percent employ school resource officers.<sup>175</sup>

#### *South Dakota School Sentinel Program*

In 2013, South Dakota authorized school districts to create and supervise the arming of school employees, security personnel, or volunteers.<sup>176</sup> Currently, two South Dakota school districts<sup>177</sup> have implemented the School Sentinel program.<sup>178</sup>

Under the program, law enforcement provides training for all approved school personnel who volunteer to serve as sentinels. The training course requires at least 80 hours of training similar to Texas.<sup>179</sup> In addition, an applicant must hold a valid concealed weapons permit, be examined by a licensed physician who certifies that the applicant is able to perform the duties of a school sentinel, and may not have unlawfully used any prescribed drug, controlled substance, or marijuana within one year before the time of application for training.<sup>180</sup>

#### Office of Safe Schools

The Office of Safe Schools (OSS) within the Florida Department of Education (DOE) promotes and supports safe learning environments by addressing issues of student safety and academic success. The Office administers the Safe Schools Allocation, which provides for an equitable distribution of resources for safe schools activities for each school district, with a priority for providing school resource officers.<sup>181</sup>

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<sup>171</sup> AJC.com, Cox Media Group National Content Desk, Texas school marshals allowed to carry guns on campus, Feb. 17, 2018, <https://www.tcole.texas.gov/content/school-marshals> (last visited Feb. 24, 2018).

<sup>172</sup> Texas Commission on Law Enforcement, School Marshal Program, <https://www.tcole.texas.gov/sites/default/files/documents/school%20marshal%20brochure.pdf> (last visited Feb. 24, 2018).

<sup>173</sup> Id.  
<sup>174</sup> <https://www.ajc.com/news/texas-school-marshals-allowed-carry-guns-campus/mbZhkdAdiD7SGZixNtifeL/> (last visited Feb. 24, 2018).

<sup>175</sup> Corpus Christi Caller-Times, In Texas, 172 school districts allow teacher to carry guns in schools, Feb. 22, 2018, <http://www.caller.com/story/news/education/2018/02/22/texas-172-school-districts-allow-teachers-staff-armed/364677002/> (last visited Feb. 24, 2018).

<sup>176</sup> Keloland Media Group, School sentinel training program scheduled for July, Apr. 12, 2016, <http://www.keloland.com/news/article/news/school-sentinel-training-program-scheduled-for-july> (last visited Feb. 24, 2018).

<sup>177</sup> The News Tribune, Excerpts from Recent South Dakota editorials, the Associated Press, Feb. 20, 2018, <http://www.thenewstribune.com/news/business/article201066669.html> (last visited Feb. 24, 2018).

<sup>178</sup> KCCR AM 1240, Local News, Lawmakers Urge Schools to Consider Sentinel Programs After Parkview Florida School Shooting, Feb. 15, 2018, <http://www.todaykccr.com/lawmakers-urge-schools-to-consider-sentinel-programs-after-parkview-florida-school-shooting/> (last visited Feb. 24, 2018).

<sup>179</sup> Office of the South Dakota Attorney General, Law Enforcement Resources, Training, School Sentinel Training Program, <http://atg.sd.gov/LawEnforcement/Training/schoolsentinel.aspx> (last visited Feb. 24, 2018). Individuals must receive training in: firearms proficiency, use of force, legal aspects of using force, weapons retention by a sentinel, identifying protocols, and, first aid for victims.

<sup>180</sup> Id.

<sup>181</sup> See s. 1011.62(15), F.S.

The Safe Schools Allocation consists of a base sum for each school district, as appropriated by the Legislature each year, with two-thirds of the remaining amount provided to each district based on the Florida Crime Index and one-third based on each district's proportionate share of the state's total unweighted full time equivalent student enrollment.<sup>182</sup>

For the 2017-2018 school year, the Legislature appropriated a total of \$64,456,019 for safe schools activities and established a based sum of \$62,660 for each school district.<sup>183</sup>

### Emergency Drills and Procedures

Florida law requires each district school board to formulate policies and procedures for emergency response drills and actual emergencies. These policies must include procedures for responding to various emergencies, such as fires, natural disasters, and bomb threats. Commonly used alarm system responses for specific types of emergencies must be incorporated into such policies.<sup>184</sup>

DOE provides a risk assessment tool for conducting security assessments; however, school districts are not required to conduct security assessments at each public school site.<sup>185</sup>

Each district school superintendent must make recommendations to the school board for improving emergency response policies based upon the results of the self-assessment. The superintendent's recommendations must be addressed in a publicly noticed school board meeting. The results of the self-assessment and any school board action on the superintendent's recommendations must be reported to the Commissioner of Education within 30 days after the school board meeting.<sup>186</sup>

### Zero Tolerance Policies

In compliance with the federal Gun Free Schools Act,<sup>187</sup> Florida law requires each district school board to adopt a policy of zero tolerance for crime and victimization, which, among other things, requires that students found in possession of a firearm at school, at school functions, or on school transportation be expelled for a minimum of one year and referred to the criminal justice or juvenile justice system. Florida's zero tolerance law also applies to a student in possession of a weapon at school, at a school function, or on school transportation and also applies to threats or false reports regarding explosives, bombs, weapons of mass destruction, and destructive devices involving school or school personnel's property, school transportation, or school sponsored activities.<sup>188</sup>

In 2009, Florida revised its zero tolerance law to encourage the use of alternatives to expulsion or referral to law enforcement by addressing disruptive behavior through restitution, civil citation, teen court, neighborhood restorative justice, or similar programs.

Florida law states that the purpose of zero tolerance policies is to protect students and staff from serious threats to school safety and the policies should not be applied to petty acts of misconduct and misdemeanors, including, but not limited to, minor fights or disturbances.<sup>189</sup> Among other things, each

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<sup>182</sup> See *id.*

<sup>183</sup> Section 6., ch. 2017-234, L.O.F.

<sup>184</sup> Section 1006.07(4)(a), F.S. Additionally, district school boards must establish model emergency management and preparedness procedures for weapon-use and hostage situations; hazardous materials or toxic chemical spills; weather emergencies, including hurricanes, tornadoes, and severe storms; and exposure resulting from manmade emergencies. Section 1006.07(4)(b), F.S.

<sup>185</sup> See *id.* (citing Specific Appropriation 102A, s. 2, ch. 2013-40. The purpose of the assessment is to help school officials identify threats, vulnerabilities, and appropriate safety controls for schools.

<sup>186</sup> Section 1006.07(6), F.S.

<sup>187</sup> Pub. L. 101-647—NOV. 29, 1990

<sup>188</sup> Section 1006.13(3), F.S.; see s. 790.162 and 790.163, F.S. (relating to threats and false reports).

<sup>189</sup> Section 1006.13(1), F.S.

school board's zero tolerance policy must define acts that pose a serious threat to school safety and petty acts of misconduct.<sup>190</sup>

School boards have discretion to provide continuing educational services to an expelled student in an alternative educational setting. A district school superintendent may consider the one-year expulsion requirement on a case-by-case basis and request that the school board modify the requirement by assigning the student to a disciplinary program or second chance school if it determines such modification is in the best interest of the student and the school system.<sup>191</sup>

Additionally, each school board's zero tolerance policy must:

- Provide that any student found to have committed crimes upon any elected official or school district employee must be expelled or placed in an alternative school setting or other program, as appropriate.<sup>192</sup>
- Prohibit students found to have committed certain felony offenses against another student from attending the same school or riding on the same school bus as a victim or a victim's sibling.<sup>193</sup>

School boards must enter into agreements with the county sheriff's office and local police department which specify the guidelines for ensuring that acts posing a serious threat to school safety, whether committed by a student or an adult, are reported to a law enforcement agency. In addition, school boards must adopt a cooperative agreement with the Florida Department of Juvenile Justice (DJJ) to establish guidelines for ensuring that any "no contact order" entered by a court is reported and enforced and that all of the necessary steps are taken to protect the victim of the offense.<sup>194</sup>

### *PROMISE Program*

The PROMISE program in Broward County is an example of such an agreement. It addresses the needs of students who commit non-violent infractions that previously could have resulted in the student being arrested and entering the juvenile justice system. The program emphasizes intervention and prevention. Students receive behavioral supports, counseling and mentoring in an environment focused on helping them make better life choices.<sup>195</sup> Some of the non-violent infractions include drug or alcohol possession, bullying, major disruption on campus, and fighting – mutual combatant.<sup>196</sup> Depending on the severity of the incident, a student may have several incidents prior to referral to law enforcement.<sup>197</sup>

### Student Crime Watch

Each district school board must provide for the proper attention to health, safety, and other matters relating to the welfare of students, including implementation of a student crime watch program. The purpose of the program is to promote responsibility among students and to assist in the control of criminal behavior within the schools.<sup>198</sup>

### School Resource and School Safety Officers

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<sup>190</sup> Section 1006.13(2)(b) and (c), F.S.

<sup>191</sup> Section 1006.13(3), F.S. (flush-left provision at end of subsection).

<sup>192</sup> Section 1006.13(5), F.S.

<sup>193</sup> Section 1006.13(6)(a), F.S.

<sup>194</sup> Section 1006.13(4)(a) and (6)(b), F.S.

<sup>195</sup> *Broward PROMISE Program*, Broward County Schools, available at <https://www.browardprevention.org/behavior/promise/>.

<sup>196</sup> *Promise Infraction Matrix*, Broward County Schools, available at <https://www.browardprevention.org/wp-content/uploads/2013/10/Pages-from-PROMISE-Infraction-Matrix.pdf>.

<sup>197</sup> Broward County Public Schools Administrative Discipline Matrix – Grades 9-12, Broward County Schools, available at <http://www.browardschools.com/SiteMedia/Docs/Info/CodeBook/Matrix-9-12.pdf>.

<sup>198</sup> See s. 1006.07(3), F.S. See e.g., *Youth Crime Watch of Miami-Dade County*, Citizens' Crime Watch of Miami-Dade County, available at <http://www.youthcrimewatch-miamidade.com/>; *Youth Crime Watch of Broward County*, Broward County Schools, available at [http://www.broward.k12.fl.us/emergencypreparedness/ycw\\_new/pages/index.html](http://www.broward.k12.fl.us/emergencypreparedness/ycw_new/pages/index.html).

A SRO is a law enforcement officer who is employed by a law enforcement agency. School resource officers abide by school board policies and consult with and coordinate activities through the school principal. They are responsible to the law enforcement agency in all matters relating to employment, subject to agreements between a school board and a law enforcement agency. Activities conducted by the SRO, which are part of the regular instructional program of the school, are under the principal's direction.<sup>199</sup>

A school safety officer is a certified law enforcement officer<sup>200</sup> who may be employed by a district school board or law enforcement agency. A school safety officer has and must exercise the power to make arrests for violations of law on school board property. The school safety officer may also make arrests off school board property and may carry weapons when performing his or her official duties. A school safety officer's salary may be paid jointly by the school board and the law enforcement agency, depending upon the agreement.<sup>201</sup>

Prior to the 2017-2018 fiscal year, proviso language associated with the Florida Education Finance Program (FEFP) in the General Appropriations Act identified the eligible safe school activities on which school districts could spend Safe Schools allocation funds, including implementing the district's school resource officer program. For the past several years, over 80 percent of the Safe School allocation has been used by school districts to pay for school resource officers. Data from the 2015-2016 school year shows a total of 1,516 school resource officers statewide serving 2,432 schools; and of the \$64.5 million appropriated in the Safe Schools allocation, \$52.3 million was used to pay for these officers. Throughout the state, most school districts collaborate with law enforcement agencies to provide school resource officers; these salaries are paid through a variety of funding sources, including the Safe Schools allocation and county sheriff departments.

### Mental Health and Mental Illness

Mental health and mental illness are not synonymous. Mental health is a state of well-being in which the individual realizes his or her own abilities, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to his or her community.<sup>202</sup>

Mental illness is collectively all diagnosable mental disorders or health conditions that are characterized by alterations in thinking, mood, or behavior (or some combination thereof) associated with distress and/or impaired functioning.<sup>203</sup> Thus, mental health refers to an individual's mental state of well-being whereas mental illness signifies an alteration of that well-being.

Mental illness affects millions of people in the United States each year. Only about 17% of adults in the United States are considered to be in a state of optimal mental health.<sup>204</sup> This leaves the majority of the population with less than optimal mental health.<sup>205</sup>

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<sup>199</sup> Section 1006.12(1), F.S.

<sup>200</sup> See s. 943.10(1), F.S.,

<sup>201</sup> Section 1006.12(2), F.S.

<sup>202</sup> *Mental Health Basics*, Centers for Disease Control and Prevention. <http://www.cdc.gov/mentalhealth/basics.htm> (last visited February 24, 2018). The primary indicators used to evaluate an individual's mental health are: 1. Emotional well-being (perceived life satisfaction, happiness, cheerfulness, peacefulness); 2. Psychological well-being (self-acceptance, personal growth including openness to new experiences, optimism, hopefulness, purpose in life, control of one's environment, spirituality, self-direction, and positive relationships); and 3. Social well-being (social acceptance, beliefs in the potential of people and society as a whole, personal self-worth and usefulness to society, sense of community).

<sup>203</sup> Id.

<sup>204</sup> *Mental Health Basics*, Centers for Disease Control and Prevention. <http://www.cdc.gov/mentalhealth/basics.htm> (last visited January 12, 2018). Mental illness can range in severity from no or mild impairment to significantly disabling impairment. Serious mental illness is a mental disorder that has resulted in a functional impairment which substantially interferes with or limits one or more major life activities. *Any Mental Illness (AMI) Among Adults*, National Institute of Mental Health, available at <http://www.nimh.nih.gov/health/statistics/prevalence/any-mental-illness-ami-among-adults.shtml> (last viewed on January 12, 2018).

<sup>205</sup> *Mental Health by the Numbers*, National Alliance on Mental Illness, available at <http://www.nami.org/Learn-More/Mental-Health-By-the-Numbers> (last visited January 12, 2018).

- One in five adults (43.8 million people) experiences mental illness in a given year;
- Approximately 6.9 percent (16 million people) had at least one major depressive episode in the past year; and
- Approximately 18.1 percent of adults live with anxiety disorders, such as obsessive-compulsive disorder, posttraumatic stress disorder, and specific phobias.

Many people are diagnosed with more than one mental illness. For example, people who suffer from a depressive illness (major depression, bipolar disorder, or dysthymia) often have a co-occurring mental illness such as anxiety.<sup>206</sup>

### Mental Health Services in Florida

The Department of Children and Families (DCF) administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment and recovery for children and adults who are otherwise unable to obtain these services. SAMH programs include a range of prevention, acute interventions (e.g. crisis stabilization), residential treatment, transitional housing, outpatient treatment, and recovery support services. Services are provided based upon state and federally-established priority populations.<sup>207</sup>

### *Behavioral Health Managing Entities*

In 2001, the Legislature authorized DCF to implement behavioral health managing entities (MEs) as the management structure for the delivery of local mental health and substance abuse services.<sup>208</sup> The implementation of the ME system initially began on a pilot basis and, in 2008, the Legislature authorized DCF to implement MEs statewide.<sup>209</sup> Full implementation of the statewide managing entity system occurred in April 2013; all geographic regions are now served by a managing entity.<sup>210</sup>

DCF contracts with seven MEs - Big Bend Community Based Care (**blue**), Lutheran Services Florida (**yellow**), Central Florida Cares Health System (**orange**), Central Florida Behavioral Health Network, Inc. (**red**), Southeast Florida Behavioral Health (**pink**), Broward Behavioral Health Network, Inc. (**purple**), and South Florida Behavioral Health Network, Inc. (**beige**) that in turn contract with local service providers<sup>211</sup> for the delivery of mental health and substance abuse services.<sup>212</sup>

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<sup>206</sup> *Mental Health Disorder Statistics*, John Hopkins Medicine, available at [http://www.hopkinsmedicine.org/healthlibrary/conditions/mental\\_health\\_disorders/mental\\_health\\_disorder\\_statistics\\_85,P00753/](http://www.hopkinsmedicine.org/healthlibrary/conditions/mental_health_disorders/mental_health_disorder_statistics_85,P00753/) (last visited January 12, 2018).

<sup>207</sup> These priority populations include, among others, persons diagnosed with co-occurring substance abuse and mental health disorders, persons who are experiencing an acute mental or emotional crisis, children who have or are at risk of having an emotional disturbance and children at risk for initiating drug use.

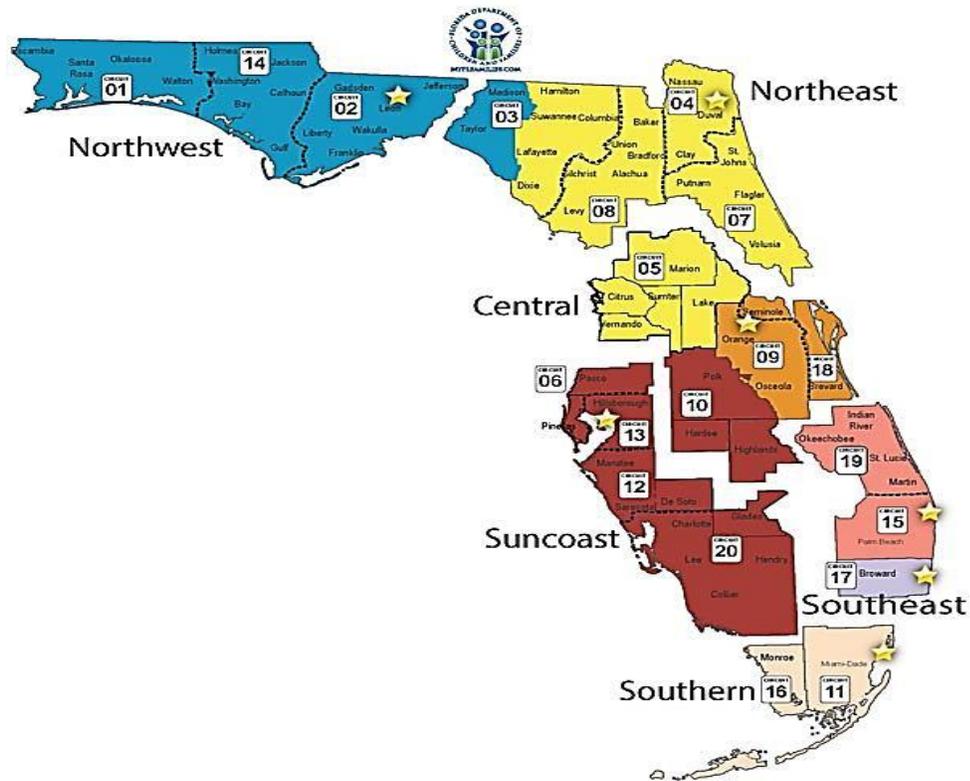
<sup>208</sup> Ch. 2001-191, Laws.

<sup>209</sup> Chapter 2008-243, Laws.

<sup>210</sup> *The Department of Children and Families Performance and Accountability System for Behavioral Health Managing Entities*, Office of Program Policy Analysis and Government Accountability, July 18, 2014.

<sup>211</sup> Managing entities create and manage provider networks by contracting with service providers for the delivery of substance abuse and mental health services.

<sup>212</sup> *Managing Entities*, Department of Children and Families. <http://www.myflfamilies.com/service-programs/substance-abuse/managing-entities> (last viewed on January 4, 2016).



## Mental Health Services for Students

The Department of Education (DOE), through the Bureau of Exceptional Education and Student Services and the Office of Safe Schools, promotes a system of support, policies, and practices that focus on prevention and early intervention to improve student mental health and school safety. Florida law requires instructional personnel to teach comprehensive health education that addresses concepts of mental and emotional health as well as substance use and abuse.<sup>213</sup> Student Services personnel, which includes school psychologists, school social workers, and school counselors, are classified as instructional personnel responsible for advising students regarding personal and social adjustments, and provide direct and indirect services at the district and school level.<sup>214</sup>

State funding for school districts is provided primarily by legislative appropriations, the majority of which is distributed through an allocation through the FEFP to each district. In addition to the basic amount for current operations for the FEFP, the Legislature may appropriate categorical funding for specified programs, activities or purposes.<sup>215</sup> Each district school board must include the amount of categorical funds as a part of the district annual financial report to the DOE, and the DOE must submit a report to the Legislature that identifies by district and by categorical fund the amount transferred and the specific academic classroom activity for which the funds were spent.<sup>216</sup>

The law provides that district school boards and state agencies administering children’s mental health funds should form a multiagency network to provide support for students with severe emotional disturbance.<sup>217</sup> The program goals for each component of the multiagency network are to:

- enable students with severe emotional disturbance to learn appropriate behaviors, reduce dependency, and fully participate in all aspects of school and community living;

<sup>213</sup> Section 1003.42(2)(n), F.S.

<sup>214</sup> Section 1012.01(2)(b), F.S.

<sup>215</sup> *Id.* at (6).

<sup>216</sup> *Id.* at (6).

<sup>217</sup> See s. 1006.04(1)(a), F.S.

- develop individual programs for students with severe emotional disturbance, including necessary educational, residential, and mental health treatment services;
- provide programs and services as close as possible to the student's home in the least restrictive manner consistent with the student's needs; and
- integrate a wide range of services necessary to support students with severe emotional disturbances and their families.<sup>218</sup>

The DOE may award grants to district school boards for statewide planning and development of the multiagency Network for Students with Emotional or Behavioral Disabilities (SEDNET).<sup>219</sup> SEDNET is a network of 19 regional projects that are composed of major child-serving agencies, community-based service providers, and students and their families. Local school districts serve as fiscal agents for each local regional project.<sup>220</sup> SEDNET focuses on developing interagency collaboration and sustaining partnerships among professionals and families in the education, mental health, substance abuse, child welfare, and juvenile justice systems serving children and youth with and at risk of emotional and behavioral disabilities.<sup>221</sup>

### Law Enforcement Interactions with Individuals with Mental Illness

Law enforcement is often called to intervene in situations where individuals with mental illness behave in ways that disturb the social order or lead to concerns for others' safety; however, these situations are challenging for officers, as individuals with mental illness may not respond well to the standard law enforcement approaches.<sup>222</sup> For example, the majority of individuals assaulting police officers are under the influence of drugs or alcohol, have a psychiatric disorder, or have co-occurring behavioral health conditions.<sup>223</sup> Additionally, when officers perceive mental disturbance to be dangerous, they may approach the individual with increased force in order to resolve the situation with the result that encounters can be dangerous for both police officers and individuals with mental illness.<sup>224</sup>

In 1987, police officers in Memphis, Tennessee, responded to a call where a young man was threatening people with a knife and when police officers ordered him to drop the knife, he refused; the officers eventually opened fire, and the young man died of multiple gunshot wounds.<sup>225</sup> The man had a history of mental illness.<sup>226</sup> Community concerns about the young man's death led Memphis to develop a better way to intervene with individuals in a mental health crisis, which became the Memphis model of Crisis Intervention Training (CIT).<sup>227</sup>

### *Crisis Intervention Training*

<sup>218</sup> Section 1006.04(1)(b), F.S.

<sup>219</sup> Section 1006.04(2), F.S.

<sup>220</sup> Fiscal agents include the Brevard, Broward, Miami-Dade, Duval, Escambia, Hamilton, Highlands, Hillsborough, Lee, Leon, Marion, Orange, Palm Beach, Pinellas, Polk, Putnam, St. Lucie, Sarasota, and Washington school districts. Florida Department of Education, Bureau of Exceptional Education and Student Services, *BEESS Discretionary Projects* (Jan. 2017) at 11, available at <http://www.fldoe.org/core/fileparse.php/7567/urlt/projectslisting.pdf>.

<sup>221</sup> Florida Department of Education, Bureau of Exceptional Education and Student Services, *BEESS Discretionary Projects* (Jan. 2017), available at <http://www.fldoe.org/core/fileparse.php/7567/urlt/projectslisting.pdf>.

<sup>222</sup> Watson, Amy, et. al., *Improving police response to persons with mental illness: A Multilevel conceptualization of CIT*, National Institutes of Health, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2655327/pdf/nihms69181.pdf> (last visited Feb. 24, 2018).

<sup>223</sup> Id.

<sup>224</sup> Id.

<sup>225</sup> *Overview: The CIT Program: Background*, University of Memphis CIT Center, <http://www.cit.memphis.edu/overview.php?page=1> (last visited Feb. 24, 2018).

<sup>226</sup> Id.

<sup>227</sup> *Overview: The Memphis Model*, University of Memphis CIT Center, <http://www.cit.memphis.edu/overview.php?page=1> (last visited Feb. 24, 2018).

There are nearly 2,700 CIT programs in the United States;<sup>228</sup> including seven regional or multi-county and 26 county programs in Florida.<sup>229</sup> CIT offers an alternative approach to standard law enforcement practices tailored to the needs of individuals with mental illness. CIT involves a five-day training for law enforcement officers<sup>230</sup> that provides information on:

- **Mental health:**<sup>231</sup> provides officers with a better understanding of the diagnostic and treatment issues related to mental health functioning<sup>232</sup> and discusses the civil rights of those with mental illness, state commitment statutes, and mental health assessment.
- **Community support services:**<sup>233</sup> provides officers with information on the support services available within their own communities. A portion of this section includes presentations by mental health advocate organizations, individuals with mental illness and their family members, and other advocates from the community.
- **Police procedures and liability issues:**<sup>234</sup> covers protocols relating to officer tactical training and safety restraints; provides information of how officers can manage stress; and emphasizes legal, safety and policy issues.
- **De-escalation training:**<sup>235</sup> trains officers on the methods necessary for on-scene crisis intervention and includes role playing, scenario usage, and officer safety issues.
- **Jail diversion strategies and mental health courts:**<sup>236</sup> includes topics such as an introduction to diversion strategies and established programs within the criminal justice system to integrate incarcerated individuals with local mental health resources, and work with the mental health courts.

The training also includes site visits to programs or facilities used by individuals with mental illness, such as homeless shelters, outpatient treatment centers, drop-in centers or state hospitals, where trainees can interact with individuals with mental illness.<sup>237</sup>

### *Positive Outcomes of CIT*

Research indicates that alternatives to standard law enforcement approaches, such as CIT, work more effectively with individuals with mental illness, resulting in lower rates of injury and death. For example, these approaches can help law enforcement to de-escalate the situation, and can also divert individuals with mental illness from jails and into treatment settings more appropriate for dealing with the mental

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<sup>228</sup> University of Memphis CIT Center, Overview: *National Model*, <http://www.cit.memphis.edu/overview.php?page=7> (last visited Feb. 24, 2018).

<sup>229</sup> University of Memphis CIT Center, *Escambia CIT Programs*, <http://www.cit.memphis.edu/cjus/index.php?classname=cCountyDetails&funct=showCountyDetails&county=Escambia&stateid=10> (last visited Feb. 24, 2018). Regional and multi-county programs include Central Florida, North Central Florida, Northwest Florida CIT, Northwest Florida Regional Task Force, Treasure Coast, Volusia/Flagler, Lake/Sumter, and Pasco/Hernando. County programs include Bay, Bradford, Broward, Charlotte, Citrus, Clay, Columbia, Miami-Dade (2), DeSoto, Gadsden, Gulf, Holmes, Lee, Leon, Marion, Nassau, Okaloosa, Orange, Osceola, Palm Beach, Pinellas, Sarasota, Walton, and Washington. (last visited Feb. 24, 2018).

<sup>230</sup> University of Memphis CIT Center, *National Curriculum*, <http://www.cit.memphis.edu/curriculum.php?id=0> (last visited Feb. 24, 2018).

<sup>231</sup> University of Memphis CIT Center, *Mental Health Didactics: Overview of Mental Health Didactics*, <http://www.cit.memphis.edu/curriculum.php?id=1> (last visited February 24, 2018).

<sup>232</sup> Includes lectures on an overview of severe and persistent mental illness, an in-depth examination of mood and thought disorders, review of issues related to children and youth, examination of cognitive disorders, special focus on issues such as PTSD and suicide, examination of substance abuse and co-occurring disorders, and an introduction to psychopharmacology.

<sup>233</sup> University of Memphis CIT Center, *Community Support: Overview of Community Support*, <http://www.cit.memphis.edu/curriculum.php?id=2> (last visited February 24, 2018).

<sup>234</sup> University of Memphis CIT Center, *Law Enforcement: Overview of Law Enforcement*, <http://www.cit.memphis.edu/curriculum.php?id=5> (last visited February 24, 2018).

<sup>235</sup> University of Memphis CIT Center, *De-Escalation Training: Overview of De-Escalation Training*, <http://www.cit.memphis.edu/curriculum.php?id=3> (last visited February 24, 2018).

<sup>236</sup> University of Memphis CIT Center, *Research and Systems: Jail Diversion*, <http://www.cit.memphis.edu/curriculum.php?id=6&page=1> (last visited February 24, 2018).

<sup>237</sup> University of Memphis CIT Center, *Site Visits: Overview of Site Visits*, <http://www.cit.memphis.edu/curriculum.php?id=4> (last visited Feb. 24, 2018).

illness underlying the behavior.<sup>238</sup> Additionally, research indicates the CIT is effective at increasing officers' knowledge about and improving attitudes toward individuals with mental illness.<sup>239</sup> Data from observations of officers' behavior indicated that CIT was associated with decreased likelihood of arrest and increased likelihood of referral or transport to mental health services. In one study, while CIT trained officers and non-CIT trained officers used force at the same rates, CIT trained officers were significantly more likely than non-CIT trained officers to use verbal engagement or negotiation as the highest level of force in a situation involving a person with mental illness.<sup>240</sup>

### Mobile Crisis Teams

A mental health crisis can be an extremely frightening and difficult experience for both the individual in crisis and those around him or her. It can be caused by a variety of factors at any hour of the day.<sup>241</sup> Family members and caregivers of an individual experiencing a mental health crisis are often ill-equipped to handle these situations and need the advice and support of professionals.<sup>242</sup> All too frequently, law enforcement or EMTs are called to respond to mental health crises and they often lack the training and experience to effectively handle the situation.<sup>243</sup> Mobile crisis teams can be beneficial in such instances.

Mobile crisis teams are deployed prior to the individual's arrival at a receiving facility or emergency room to provide immediate assessment, intervention, recommendations, referral, and support services.<sup>244</sup> Early intervention can efficiently stabilize acute situations; specifically, mobile crisis teams can prevent unnecessary stays in hospitals and jails and connect individuals with the community mental health system who had not accessed treatment and services before.<sup>245</sup> Crisis teams are available to anyone, regardless of their ability to pay and must be ready to respond to any mental health emergency.

### Mobile Crisis Teams in Florida<sup>246</sup>

Behavioral Health Managing Entity	# of Teams	Provider	Population Served
Big Bend Community Based Care	0	None	None
Broward Behavioral Health Coalition	1	Henderson Behavioral Health	Adults and Children, 24/7
Central Florida Behavioral Health Network	3	Gracepoint Wellness	Adults and Children, day/evening
		Peace River Center- Bartow	Adults and Children, day/evening
		Centerstone of Florida	Adults and Children, M-F 9am –7pm
Central Florida Cares Health Systems	2	Brevard Cares Mobile Crisis Response Team	Children and Families, 24/7
		Devereux Advanced Behavioral Health	Children only
Lutheran Services	0	None	None
Southeast Florida	4	Jerome Golden Center for Behavioral	Adults and children, 24/7

<sup>238</sup> Overview: *Jail Diversion and Referral to Healthcare*, University of Memphis CIT Center, <http://www.cit.memphis.edu/overview.php?page=4> (last visited Feb. 24, 2018).

<sup>239</sup> Compton, Michael, et al., *The Police-Based Crisis Intervention Team (CIT) Model: I. Effects on Officers' Knowledge, Attitudes, and Skills*, PSYCHIATRIC SERVICES, Vol. 65, Issue 4. <https://ps.psychiatryonline.org/doi/full/10.1176/appi.ps.201300107> (last visited Feb. 24, 2018).

<sup>240</sup> Compton, Michael, et al., *The Police-Based Crisis Intervention Team (CIT) Model: II. Effects on Level of Force and Resolution, Referral, and Arrest*, PSYCHIATRIC SERVICES, Vol. 65, Issue 4. <https://ps.psychiatryonline.org/doi/full/10.1176/appi.ps.201300107> (last visited Feb. 24, 2018).

<sup>241</sup> Department of Children and Families, *Mobile Crisis Teams – Florida*, (Aug. 15, 2017), p. 1, available at <http://www.dcf.state.fl.us/programs/samh/MentalHealth/task-force-examination-minors/docs/20170818/Mobile%20Crisis%20Teams.docx> (last visited February 23, 2018).

<sup>242</sup> Id.

<sup>243</sup> Id.

<sup>244</sup> Id.

<sup>245</sup> Id.

<sup>246</sup> Id. at pp. 1-2.

Behavioral Health Network		Health (West Palm)	
		Jerome Golden Center for Behavioral Health (Belle Glade)	Adults and children, 24/7
		South County Mental Health Center	Adults and children, 24/7
		New Horizons of the Treasure Coast	Adults and children, 24/7
South Florida Behavioral Health Network	1	Miami Behavioral Health: Banyan Health Systems Mobile Crisis Team	Adult and children, 24/7

### Community Action Treatment (CAT) Teams

According to the National Institute of Mental Health (NIMH), half of all lifetime cases of mental health disorders have begun by age 14 and three quarters have begun by age 24.<sup>247</sup> Successful transition between the children and adult systems is critical; many individuals with mental health disorders fall through the gaps between the children and adult mental health systems during a critical time in their lives.<sup>248</sup> In 2003, the New Freedom Commission on Mental Health released a report that identified further gaps in the mental health system and recommended transforming the mental health system through community-based services to help individuals with mental illnesses live successfully in their communities.<sup>249</sup> Community Action Treatment (CAT) teams model are an example of a comprehensive service approach that allows young people with mental illnesses who are at risk or out-of-home placements to receive services and remain in their communities with their caregivers.<sup>250</sup>

CAT teams are intended to be a safe and effective alternative to out-of-home placement for children with a mental health condition and characteristics that impact their ability to function well in the community.<sup>251</sup> The goals of CAT teams are to:<sup>252</sup>

- Strengthen the family and support systems for youth and young adults to assist them to live successfully in the community;
- Improve school related outcomes such as attendance, grades and graduation rates;
- Decrease out-of-home placements;
- Improve family and youth functioning;
- Decrease substance use and abuse;
- Decrease psychiatric hospitalizations;
- Transition into age appropriate services; and
- Increase health and wellness.

To be eligible for services through a CAT team, the individual must be a child or young adult, up to 21 years old, with a mental health or co-occurring substance abuse diagnosis and specified accompanying characteristics, the requirements for which vary by age.<sup>253</sup> If the child is less than 11 years old he or she must meet two of the following accompanying characteristics; however, individuals aged 11-21 must only meet one of the following accompanying characteristics:<sup>254</sup>

<sup>247</sup> Kessler, Berglund, Demler, Jin, Merikangas, and Walters, *Lifetime prevalence and age-of-onset distributions of DSM-IV disorders in the National Comorbidity Survey Replication*, ARCHIVES OF GENERAL PSYCHIATRY. (Jun. 2005), available at, <https://www.ncbi.nlm.nih.gov/pubmed/15939837> (last visited February 23, 2018).

<sup>248</sup> Maryann Davis and Bethany Hunt, *State efforts to expand transition supports for young adults receiving adult public mental health services*. SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION, CENTER FOR MENTAL HEALTH SERVICES, (2005), available at, <https://www.nasmhpd.org/sites/default/files/Expand%20Transition%20Supports.pdf> (last visited February 23, 2018).

<sup>249</sup> <http://govinfo.library.unt.edu/mentalhealthcommission/reports/FinalReport/downloads/FinalReport.pdf> (last visited February 23, 2018).

<sup>250</sup> Department of Children and Families, *Community Action Team Evaluation Report*, (Jan. 31, 2014), p. 6, available at [http://www.dcf.state.fl.us/programs/samh/docs/CAT\\_Team\\_Evaluation\\_January\\_31\\_2014.pdf](http://www.dcf.state.fl.us/programs/samh/docs/CAT_Team_Evaluation_January_31_2014.pdf) (last visited February 23, 2018).

<sup>251</sup> Department of Children and Families, Fiscal Year 2017-18 Managing Entity Templates, Guidance 32 – Community Action Treatment (CAT) Team, Effective Jan. 1, 2018, p. 1 (Guidance Document on file with Rule and Policy Committee).

<sup>252</sup> Id. at pp. 1-2.

<sup>253</sup> Id. at p. 2.

<sup>254</sup> Id.

- The individual is at-risk for out-of-home placement as demonstrated by repeated failures at less intensive levels of care;
- The individual has had two or more hospitalization or repeated failures;
- The individual has had involvement with the Department of Juvenile Justice or multiple episodes involving law enforcement; or
- The individual has poor academic performance and/or suspensions.

The CAT model is an integrated service delivery approach that utilizes a team of individuals to comprehensively address the needs of the young person, and their family.<sup>255</sup> The CAT team includes a full-time team leader, mental health clinicians, a psychiatrist or advanced registered nurse practitioner (ARNP), a registered or licensed practical nurse, a case manager, therapeutic mentors, and support staff.<sup>256</sup> They work collaboratively to deliver the majority of behavioral health services, coordinate with other service providers when necessary, and assist the family in developing or strengthening their natural support system.<sup>257</sup>

CATs have greater flexibility than traditional mental health providers, which is intended to promote a “whatever it takes” approach to assisting young people with mental health or co-occurring substance use disorders and their families to achieve their goals.<sup>258</sup> One of the differences between CAT teams and traditional mental health services is that services are provided or coordinated by the multidisciplinary team; these services are individualized and often do not fit into the standard of medical necessity, and are typically not reimbursed by Medicaid or private insurance.<sup>259</sup> The number of sessions and the frequency at which they are provided is set through collaboration rather than service limits.<sup>260</sup> In addition, the family is treated as a unit, and the CAT team addresses all family members’ needs.<sup>261</sup>

CAT teams provide services in the family’s home or in other community locations that are convenient for the family being served. The mix of services and supports the CAT team provides to the individual and his or her family should be developmentally appropriate for the young person and serve to strengthen him or her and his or her family.<sup>262</sup> Services provided by the CAT team include:<sup>263</sup>

- **Crisis Intervention and 24/7 On-call Coverage:** Assists the family with crisis intervention, referrals, or supportive counseling.
- **Natural Support Network Development:** Develops natural community supports, including extended family and friends, support groups and peer support, and religious and civic organizations.
- **Case Management:** The case manager coordinates care with other parties such as providers, schools, or juvenile justice; advocates on behalf of the family; and provides access to services and supports, including, but not limited to: primary health care (medical and dental); basic needs such as housing and transportation; educational services such as tutoring; vocational services such as job readiness and placement; and legal services.
- **Incidental and Emergency Funds:** Funds are used for services and supports, outlined in the care plan. Examples of items purchased include medications, aftercare or recreational activities, and educational supplies to help them reach treatment goals and move toward greater independence.

<sup>255</sup> Id.

<sup>256</sup> Id.

<sup>257</sup> Id.

<sup>258</sup> *Supra*, note 250 at p. 8.

<sup>259</sup> Id.

<sup>260</sup> Id.

<sup>261</sup> Id. at p. 9.

<sup>262</sup> *Supra*, note 251 at p. 7.

<sup>263</sup> *Supra*, note 250 at p. 9.

- **Family Education:** Families are educated on topics related to their treatment goals, including effective parenting skills and behavior management.
- **Psychiatric Services:** A psychiatrist or ARNP completes a psychiatric evaluation to determine the need for psychotherapeutic medication and for treatment recommendations. If medication is prescribed, the CAT provides medication management to review therapeutic effects and side effects.
- **Respite:** Provides short-term supervision for the young person away from the family to offer temporary relief as a planned event or to improve family stability in a time of crisis.
- **Substance Abuse and Co-occurring Services:** Ensures both mental health and substance abuse needs are addressed.
- **Therapeutic Mentoring:** A mentor is assigned to serve as a role model, build a strong sense of self and assist with social, vocational and problem solving skill development.
- **Therapy:** Provides and coordinates individual, group, and family therapy services. The type, frequency and location of therapy provided are based on their individual needs.
- **Transition Services:** Assists the family to overcome gaps in services and supports in areas such as education, vocation, living situation, and primary health and behavioral health care when moving from the children to the adult service system.
- **Transportation:** Assists with transportation to medical appointments, court hearings, or other related activities outlined in the care plan.
- **Tutoring:** Assists the young person with remedial academic instruction to enhance educational performance.

In addition to the services the CAT team provides, it also encourages the young person and his or her family to develop connections to natural supports<sup>264</sup> within their own network of associates, such as friends and neighbors; through connections with community; through service and religious organizations; and through participation in clubs and other civic activities.<sup>265</sup>

Through the treatment planning process, including in the development of a plan of care, the CAT team works with the young person and his or her family<sup>266</sup> to identify short-term objectives to build long-term stability, resilience, family unity, and to promote wellness and illness management.<sup>267</sup> Within 30 days admission, an initial plan of care must be developed.<sup>268</sup> The initial plan of care guides the provision of services by the CAT team and must at a minimum:

- Be developed with the participation of the individual receiving services and his or her family, including caregivers and guardians;
- Specify the CAT services and supports to be provided by CAT Team members, to include a focus on engagement, stabilization, and safety planning if needed; and
- Include a brief initial discharge planning discussion, to include the general goals to be accomplished prior to discharge.

Within 60 days of admission, the initial plan of care must be reviewed and updated, if needed; following the review and update, the initial plan of care becomes known as the master plan of care and must:<sup>269</sup>

- Be reviewed and updated, as need.
- Be strength-based and build on assets and resources;

<sup>264</sup> Natural supports ease the transition from formal services and provide ongoing support after discharge.

<sup>265</sup> *Supra*, note 251 at p. 6.

<sup>266</sup> There is evidence that outcomes improve when youth and families participate actively in treatment for the youth, and that their involvement is essential at every phase of the treatment process, including assessment, treatment planning, implementation, and monitoring and outcome evaluation. Because of this, DCF encourages providers to focus on engaging the young person and his or her family as a critical first step in the treatment process and to promote active participation, as equal partners, in the treatment planning process. See, note 251 at p. 6.

<sup>267</sup> *Id.*

<sup>268</sup> *Id.*

<sup>269</sup> *Id.* at pp. 6-7.

- Be individualized and developmentally appropriate to age and functioning level;
- Consider and address needs in various life domains, as appropriate;
- Integrate substance abuse and mental health treatment, when indicated;
- Specify measurable treatment goals and target dates for the CAT services and supports;
- Specify the CAT members responsible for completion of each treatment goal; and
- Include a plan for discharge, to include how CAT services will provide the resources and tools for successful transition from CAT services.

The average length of time a young person is expected to receive services is six to nine months, and may be discharged when:<sup>270</sup>

- He or she has functioned well at home and school for the past three months and the family and staff agree to terminate services;
- Family dynamics have improved, and the family and staff agree to terminate services;
- The parents or young person refuse to participate in services after three months despite efforts to engage them;
- He or she moves out of the catchment area;
- He or she is admitted to a residential treatment program, a juvenile justice or criminal justice commitment program; or
- The CAT determines that a different program would be more clinically beneficial.

As part of discharge planning, the team assists the family identify resources to successfully maintain progress.<sup>271</sup>

#### *Use of CAT Teams in Florida*

In 2005, the Florida Legislature funded the first CAT team as a behavioral healthcare pilot project for children, adolescents and young adults with significant mental health needs in Manatee County.<sup>272</sup> Manatee Glens, a non-profit behavioral health provider, implemented the first CAT pilot project with the goal of diverting children and youth with significant behavioral health needs from residential mental health treatment, foster care, and juvenile detention facilities.<sup>273</sup>

In 2013, the Legislature funded ten pilot CAT teams through Specific appropriation 352-A of the 2013–2014 GAA.<sup>274</sup> The Legislature directed DCF as part of the 352-A appropriation to develop a report that evaluates the effectiveness of CATs in meeting the goal of offering parents and caregivers of this target population a safe option for raising their child at home rather than utilizing more costly institutional placement, foster home care, or juvenile justice services.<sup>275</sup> Based on this directive, DCF published the Community Action Team Evaluation Report<sup>276</sup> on January 31, 2014. While the report was not able to provide an unequivocal conclusion as to the efficacy of the CAT team model, its assessment was positive and it found positive outcomes associated with the use of CAT teams, including diversion from out of home placement, functional improvement, improved school attendance, and an increased number of days spent in the community (i.e., not in a psychiatric hospital, juvenile detention center, residential treatment facility, or on runaway).<sup>277</sup>

<sup>270</sup> *Supra*, note 250 at pp. 10-11.

<sup>271</sup> *Id.* at p. 10

<sup>272</sup> *Supra*, note 251 at p. 1.

<sup>273</sup> *Id.*

<sup>274</sup> Fla. General Appropriation Act Fiscal Year 2013-2014, SB 1500 item 352-A, available at [http://www.myfloridahouse.gov/filestores/Adhoc/Appropriations/GAA/2013-Senate/CR\\_SB\\_1500.pdf](http://www.myfloridahouse.gov/filestores/Adhoc/Appropriations/GAA/2013-Senate/CR_SB_1500.pdf) (last viewed Feb. 24, 2018).

<sup>275</sup> *Id.*

<sup>276</sup> *Supra*, note 250.

<sup>277</sup> *Id.* at pp. 22-26.

Following the positive report on CAT teams, the Legislature allocated recurring funding and non-recurring funding expanding the number of CAT teams in 2014, 2015, 2016 and 2017.<sup>278</sup>

As of July 1, 2017, recurring funding supports 23 existing CAT teams and non-recurring funding supports 3 new teams.<sup>279</sup> They are:

- Apalachee Center (Leon, Gadsden, and Wakulla Counties)
- Baycare Behavioral Health (Pasco County)
- Bridgeway Center (Okaloosa County)
- Charlotte Behavioral Healthcare (Charlotte County)
- Child Guidance Center (Duval County)
- The Centers (Marion County)
- Circles of Care (Brevard County)
- Citrus Health Network (Miami-Dade County)
- COPE Center (Walton County)
- David Lawrence Center (Collier County)
- Family Preservation Services of Florida (the Treasure Coast)
- Halifax Health (Volusia and Flagler Counties)
- Institute for Child and Family Health (Miami-Dade County)
- Lakeside Behavioral Healthcare (Orange County)
- Lakeview Center (Escambia County)
- Life Management Center (Bay County)
- Lifestream Behavioral Center (Sumter and Lake Counties)
- Manatee Glens (Manatee County)
- Manatee Glens (Sarasota and DeSoto Counties)
- Mental Health Care (Hillsborough County)
- Meridian Behavioral Health (Alachua, Columbia, Dixie, Hamilton, Lafayette, and Suwannee Counties)
- Peace River Center (Polk, Highlands, and Hardee Counties )
- Personal Enrichment Mental Health Services - Pinellas County)
- SalusCare (Lee County)
- Sinfonia (Alachua County)
- Sinfonia (Palm Beach County)

These programs operate by contracts between DCF or the managing entity and each provider identified in the GAA.<sup>280</sup> DCF is currently implementing a transition plan to assign these contracts to ME subcontract management on or before June 30, 2018.<sup>281</sup>

In DCF's SAMH Annual Plan for fiscal years 2017-19, it identified the need to increase intensive, in-home team interventions that are available 24/7 as part of its strategic initiative to increase access to quality, recovery-oriented system of care, and enhance the community-based service array to shift from an acute care model to a recovery based model of care.<sup>282</sup> DCF identified increasing the number of CAT and mobile crisis teams as a way to meet this objective.<sup>283</sup>

### Mental Health First Aid Training

<sup>278</sup> Fla. General Appropriation Act Fiscal Years 2014-2015, 2015-2016, 2016-2017; HB 5001 item 349, SB 2500-A item 377G, HB 5001 item 382, respectively.

<sup>279</sup> Fla. General Appropriation Act Fiscal Year 2017-2018, SB 2500 item 361A.

<sup>280</sup> *Supra*, note 251 at p. 1.

<sup>281</sup> *Id.*

<sup>282</sup> Department of Children and Families, Substance Abuse and Mental Health Program Office, Florida Substance Abuse and Mental Health Plan, Triennial State and Regional Master, Fiscal Years 2017-19, (Jan. 31, 2016), pp. 8-9, *available at*, <http://www.dcf.state.fl.us/programs/samh/publications/FL-SAMH-PlanFY17-19.pdf> (last visited February 23, 2018).

<sup>283</sup> *Id.* at p. 9.

Mental Health First Aid, USA (MHFA) is a mental health literacy public education program, teaching individuals to identify, understand, and respond to signs of mental illnesses and substance use disorders.<sup>284</sup> MHFA helps to reduce the stigma associated with mental illness and increase the assistance offered to those experiencing a mental health crisis or developing a mental health problem.<sup>285</sup>

MHFA was developed in Australia in 2001 by a mental health literacy professor and a nurse specializing in health education.<sup>286</sup> The MHFA program is used worldwide, including in the United States, where the National Council for Community Behavioral Healthcare (National Council) operates MHFA in partnership with the Missouri Department of Mental Health.<sup>287</sup> Since MHFA was introduced in the United States in 2008,<sup>288</sup> over one million individuals have been trained in MHFA; the five states with the greatest number of individuals trained are California (52,637), Pennsylvania (44,704), Texas (33,468), Michigan (27,728), and Missouri (25,391).<sup>289</sup> MHFA trainees include health care professionals, social workers, employers and business leaders, leaders in faith communities, school personnel and educators, law enforcement and public safety officials, veterans and their family members, individuals with mental illness or substance use disorders and their families, and the general public.<sup>290</sup>

The Substance Abuse and Mental Health Services Administration (SAMHSA) has classified MHFA as an evidence-based program.<sup>291</sup>

### *Training*

MHFA is an interactive eight-hour course that presents an overview of mental illness and substance use disorders in the United States. It addresses:

- Risk factors and warning signs of mental health problems,
- Mental health problems' impact,
- Common treatments, and
- Recovery and resiliency.<sup>292</sup>

In MHFA training, participants learn a 5-step action plan encompassing the skills, resources and knowledge to help an individual in crisis connect with appropriate professional, peer, social, and self-help care.<sup>293</sup> The action plan covers:<sup>294</sup>

- **Assessing for risk of suicide or harm:** teaches participants to identify signs of suicidal thoughts and behaviors, self-injury, or other harm. Such warning signs include, but are not limited to, making threats or taking steps to hurt or kill oneself; acting reckless or engaging in risky activities; increased use of alcohol or drugs; withdrawing from family, friends, or society; and dramatic mood changes.

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<sup>284</sup> The National Council for Behavioral Health, *Mental Health First Aid Certification Standards*, (Aug. 2012), p. 3 available at, <https://www.nationalcouncildocs.net/wp-content/uploads/2013/10/MHFA-USA-Certification-Standards-Updated-Aug-2012.pdf> (last visited February 24, 2018).

<sup>285</sup> *Id.*

<sup>286</sup> *About*, Mental Health First Aid USA, <https://www.mentalhealthfirstaid.org/about/> (last visited February 23, 2018).

<sup>287</sup> *Id.*

<sup>288</sup> *Mental Health First Aid*, The National Council for Behavioral Health, <https://www.thenationalcouncil.org/training-courses/mental-health-first-aid/> (last visited February 23, 2018).

<sup>289</sup> *Supra*, note 286.

<sup>290</sup> *Supra*, note 288.

<sup>291</sup> Mental Health First Aid, SAMHSA's National Registry of Evidence-based Programs and Practices, <https://nrepp.samhsa.gov/ProgramProfile.aspx?id=1229> (last visited February 24, 2018).

<sup>292</sup> *What You Learn*, Mental Health First Aid USA, <https://www.mentalhealthfirstaid.org/take-a-course/what-you-learn/> (last visited February 23, 2018).

<sup>293</sup> *Id.*

<sup>294</sup> *Id.*

- **Listening nonjudgmentally:** teaches participants to use verbal and nonverbal skills such as open body posture, comfortable eye contact, and other strategies to engage in appropriate conversation.
- **Giving reassurance and information:** provides participants information and resources to offer to someone to provide emotional support and practical help.
- **Encouraging appropriate professional help:** provides participants with a variety of local and national resources to connect individuals in need of care with appropriate professionals, such as doctors, counselors, and certified peer specialists, and professional help, such as therapy or medication.
- **Encouraging self-help and other support strategies:** teaches participants to identify potential sources of support and to practice offering these supports to the person he or she is helping, such as exercise, medication, and support groups.

MHFA participants learn how to apply the action plan in a variety of situations, such as when someone is experiencing a panic attack, suicidal thoughts or behaviors, acute psychosis, overdose or withdrawal, and reaction to a traumatic event.<sup>295</sup>

The MHFA training can be conducted as one two-day seminar, two one-day events spaced over a short period of time, or as four two-hour sessions; participants must attend the entire course and pass a national exam.<sup>296</sup> MHFA training must be renewed every three years; at the end of each three-year period, the individual must complete a refresher course and exam.<sup>297</sup>

#### *“Train-the-Trainer” Instructor Certification*

MHFA offers a “train-the-trainer” course; this is its instructor certification course. Individuals are certified through a three- or five-day interactive training.<sup>298</sup> Individuals seeking instructor certification do not need specific academic or professional credentials, but should have knowledge of or experience with mental health problems, prior experience in training adult learners, and a commitment and capability to roll out MHFA in the community.<sup>299</sup> The MHFA instructor training teaches individuals to:<sup>300</sup>

- Teach the MHFA course, including material covering the 5-step action plan, evidence-supported treatment and self-help strategies, and an overview of prevalence data;
- Present the program with fidelity to the tested, core model;
- Apply the program to a range of adult learning styles; and
- Tailor presentations to diverse audiences and learning environments.

To become certified, participants must be present for the entire training, satisfactorily deliver the presentation, and pass a written exam.<sup>301</sup> Once certified as an MHFA instructor, the instructor must teach his or her first course no later than six months after receiving certification and must teach at least three courses per year.<sup>302</sup> Additionally, certified instructors must complete at least one professional development option per year and maintain acceptable ratings from participants in each MHFA training he or she teaches.<sup>303</sup>

#### *Youth Mental Health First Aid Course*

<sup>295</sup> Id.

<sup>296</sup> *Supra*, note 284 at p. 6.

<sup>297</sup> Id.

<sup>298</sup> *Certification Process*, Mental Health First Aid USA, <https://www.mentalhealthfirstaid.org/become-an-instructor/certification-process/> (last visited February 24, 2018).

<sup>299</sup> Id.

<sup>300</sup> Id.

<sup>301</sup> *Supra*, note 298.

<sup>302</sup> *Supra*, note 284 at p. 12.

<sup>303</sup> Id. at p. 13.

Youth Mental Health First Aid launched in January 2013 after a year-long pilot.<sup>304</sup> Youth Mental Health First Aid<sup>305</sup> focuses on youth 12 to 25 years old and is designed to teach adults who work with young people, such as teachers and school staff, parents and caregivers, and social services workers, how to help children and teens who are in crisis or are experiencing a mental health or substance use problem.<sup>306</sup> The course introduces participants to the unique risk factors and warning signs of mental health problems in adolescents.<sup>307</sup>

The course teaches participants the risk factors and warning signs of a variety of mental health challenges common among adolescents, including anxiety, depression, psychosis, eating disorders, ADHD, disruptive behavior disorders, and substance use disorder.<sup>308</sup> The curriculum spans mental health challenges for youth, includes a review of normal adolescent development, and provides intensive guidance for both crisis and non-crisis situations.<sup>309</sup> Participants learn to support youth with developing signs and symptoms of mental illnesses or who are in emotional crises by applying the MHFA five-step action plan in a way that is tailored to youth.<sup>310</sup>

### *State Use of Mental Health First Aid*

Arizona, Colorado, Georgia, Maryland,<sup>311</sup> and Missouri have statewide programs requiring certain public employees to complete MHFA training; typically the state pays for the employees' training.<sup>312</sup> A number of states have built MHFA training into curriculums for specified public employees. For example, in Pennsylvania and Rhode Island the course is part of corrections officer and police officer training, and in Austin, Texas, the course is offered to every public library employee.<sup>313</sup> States have also developed public-private partnerships to offer MHFA trainings. For example, Mental Health First Aid Colorado<sup>314</sup> supports community-level MHFA initiatives, coordinates and promotes awareness of MHFA trainings throughout the state, and identifies target audiences and opportunities for expanding MHFA training; additionally, the Colorado Department of Education provides funding for Youth Mental Health First Aid trainings in schools and youth-serving organizations.<sup>315</sup>

SAMHSA has awarded twenty states, including Florida, Project AWARE grants.<sup>316</sup> The Florida AWARE program promotes mental wellness and seeks to ensure that Florida youth who experience mental health problems have timely access to effective and coordinated supports and services.<sup>317</sup> The Florida AWARE program focuses on integrating school- and community-based mental health supports; as part of this, it provides training to youth-serving adults using the Youth Mental Health First Aid program.<sup>318</sup>

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<sup>304</sup> *Supra*, note 288.

<sup>305</sup> The Youth Mental Health First Aid course may only be taught by instructors certified specifically in this version.

<sup>306</sup> *Supra*, note 288.

<sup>307</sup> *Youth Mental Health First Aid*, Mental Health First Aid USA, (Jan. 2016), p. 1, available at, <https://www.mentalhealthfirstaid.org/wp-content/uploads/2016/01/Youth-MHFA.pdf> (last visited February 24, 2018).

<sup>308</sup> *Supra*, note 307.

<sup>309</sup> *Supra*, note 288.

<sup>310</sup> *Id.*

<sup>311</sup> Additionally, Maryland offers MHFA training at every community college.

<sup>312</sup> Caroline Cournoyer, Governments Discover Need for Mental Health First Aid, *Governing*, (Jun. 2012), <http://www.governing.com/topics/health-human-services/gov-governments-discover-mental-health-first-aid.html> (last visited February 24, 2018).

<sup>313</sup> Mental Health First Aid USA, *2014 Mental Health First Aid State Policy Toolkit*, (Aug. 2014), p. 26, available at, <https://www.thenationalcouncil.org/wp-content/uploads/2014/08/Policy-Toolkit-FINAL.pdf> (last visited February 24, 2018).

<sup>314</sup> Mental Health First Aid Colorado is a public-private partnership of the Colorado Behavioral Healthcare Council and Colorado Division of Behavioral Health, with collaboration from a statewide coalition of healthcare providers, advocacy organizations, criminal justice professionals, educational institutions and state agencies.

<sup>315</sup> *Youth Mental Health First Aid*, Colorado Department of Education, <https://www.cde.state.co.us/healthandwellness/ymhfa> (last visited February 24, 2018).

<sup>316</sup> The Florida Department of Education was the recipient of the Project AWARE grant. *Project Advancing Wellness and Resilience Education (AWARE)*, Substance Abuse and Mental Health Services Administration, <https://www.samhsa.gov/nitt-ta/project-aware-grant-information> (last visited February 24, 2018).

<sup>317</sup> *Florida AWARE Program Model*, Florida Department of Education, available at, <http://www.dcf.state.fl.us/programs/samh/MentalHealth/task-force-examination-minors/docs/20170928/Florida%20AWARE%20Program%20Model.pdf> (last visited February 24, 2018).

<sup>318</sup> *Id.*

## Outcomes

Overall, the evidence is reasonably strong that MHFA training improves participants' knowledge, attitudes, and help-provision behaviors related to mental health.<sup>319</sup> A meta-analysis of MHFA identified 15 studies that conducted a quantitative evaluation of either the adult or youth MHFA training.<sup>320</sup> It found promising gains among individuals trained in MHFA and found these gains to be equivalent to or greater than those for other widely accepted interventions.<sup>321</sup> An evaluation of MHFA training for teachers in South Africa found that the training increased their knowledge of mental health; changed their beliefs about treatment of depression to be more like those of mental health professionals; reduced stigma towards students with depression; and increased their confidence in providing help to students and colleagues with mental health problems.<sup>322</sup> The study also found a positive indirect effect on students; they reported receiving more mental health information from school staff.<sup>323</sup>

Additionally, participants in MHFA training self-report favorable training outcomes. An evaluation of Mental Health First Aid England (MHFA England) reported that the proportion of participants rating their knowledge in supporting people with mental health problems as 'Good' or 'Excellent' increased from 32% to 90% after completing MHFA training.<sup>324</sup> MHFA England also reported that the proportion of participants rating their confidence in supporting people with mental health problems as 'Good' or 'Excellent' increased from 27% to 89% as a result of MHFA training.<sup>325</sup>

## Effect of Proposed Changes

### Purchase of Firearms – Age and Waiting Period

The bill generally prohibits a licensed importer, licensed manufacturer, or licensed dealer from selling a firearm to a person who is less than 21 years old. The bill provides exceptions for a person purchasing a shotgun or a rifle who is at least 18 years old and is:

- A law enforcement officer<sup>326</sup> or correctional officer<sup>327</sup>; or
- On active duty in the armed forces of the U.S. Military, or full-time duty in the National Guard.

A licensed dealer who unlawfully sells a firearm to a person under 21 years old commits a third degree felony, punishable by up to 5 years in prison and up to a \$5,000 fine.

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<sup>319</sup> Eunice Wong, Rebecca Collins, and Jennifer Cerully, *Reviewing the Evidence Base for Mental Health First Aid: Is There Support for Its Use with Key Target Populations in California?*, Rand Health Quarterly, (July 2015), available at, [https://www.rand.org/content/dam/rand/pubs/research\\_reports/RR900/RR972/RAND\\_RR972.pdf](https://www.rand.org/content/dam/rand/pubs/research_reports/RR900/RR972/RAND_RR972.pdf) (last visited February 24, 2018).

<sup>320</sup> Hadlaczky, Hökby, Mkrtchian, Carli, and Wasserman, *Mental Health First Aid Is an Effective Public Health Intervention for Improving Knowledge, Attitudes, and Behaviour: A Meta-Analysis*, International Review of Psychiatry, Vol. 26, No. 4, (2014), pp. 467–475.

<sup>321</sup> Id.

<sup>322</sup> Anthony Jorm, Betty Kitchener, Michael Sawyer, Helen Scales, and Stefan Cvetkovski, *Mental health first aid training for high school teachers: a cluster randomized trial*, BioMed Central Psychiatry (Jun. 24, 2010), available at, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2908569/> (last visited February 24, 2018).

<sup>323</sup> Id.

<sup>324</sup> *Mental Health First Aid England and North East Mental Health Development Unit Partnership Project, Evaluation*, Mental Health First Aid England, (Mar. 2011), p. 2, available at, [https://mhfaengland.org/mhfa-centre/research-and-evaluation/mental-health-first-aid-north-east-england/MHFA\\_in\\_NE\\_England\\_Full\\_Evaluation.pdf](https://mhfaengland.org/mhfa-centre/research-and-evaluation/mental-health-first-aid-north-east-england/MHFA_in_NE_England_Full_Evaluation.pdf) (last visited February 24, 2018).

<sup>325</sup> Id.

<sup>326</sup> Law enforcement officer means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency. S. 943.10, F.S.

<sup>327</sup> Correctional officer means any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term "correctional officer" does not include any secretarial, clerical, or professionally trained personnel. S. 943.10, F.S.

The bill expands the mandatory 3-day waiting period for handguns to all firearms sold at retail. The 3-day period excludes weekends and legal holidays. In addition to the exceptions under current law for a concealed weapons permit holder and trade-in of another handgun, the bill, for purchase of a rifle or shotgun, excepts from the waiting period a person who:

- Successfully completed a hunter safety course and presents his or her hunter safety certification card;<sup>328</sup>
- Was born before June 1, 1975 and by current law is not subject hunter safety course requirement under s. 394.3581 to obtain a hunting license, if he or she has a valid Florida hunting license as of March 1, 2018.
- Is a law enforcement officer or correctional officer; or
- Is on active duty in the Armed Forces of the U.S. Military, or full-time duty in the National Guard.

### Bump-fire Stocks

The bill prohibits a person in Florida from transferring, distributing, selling, or keeping for sale, offering for sale, possessing, or giving to another person a bump-fire stock. The bill also prohibits importing a bump-fire stock into the state.

The bill defines a bump-fire stock to mean any device used with or attached to a firearm which uses the recoil action of the firearm to increase its cyclic firing rate to a nearly automatic rate of fire or to increase the rate of fire to a faster rate than is possible for an individual to operate the firearm unassisted by such a device.

A violation of the prohibition against bump-fire stocks is a third degree felony, punishable by up to 5 years in prison and up to a \$5,000 fine.<sup>329</sup>

### Involuntary Examination under the Baker Act – Seizure of Firearms

The bill authorizes a law enforcement agency (agency) to seize any firearm and ammunition in the possession, custody, or control of a person who meets the criteria for involuntary examination under the Baker Act and has made a credible threat of violence against another person. The agency can retain the firearm and ammunition for 72 hours, which is the maximum duration of the involuntary examination period under s. 394.463(2)(g), F.S. The law enforcement agency must report to FDLE the starting date and time of the examination period. FDLE must include the following information about the person in the Florida Crime Information Center (FCIC) so that it is discoverable in any query of a potential firearm purchaser:

- Name,
- Age,
- Date of birth,
- Last known address,
- Date and time of the beginning of the involuntary examination period, and
- Date and time of the maximum duration of the involuntary examination period.

A person may not own, possess or purchase a firearm during the 72-hour period. At the end of the 72-hour period, the agency must return the firearm and ammunition to the person. If, however, the person is adjudicated mentally defective or committed to a mental institution, the agency may retain the firearm and ammunition indefinitely, or until the person gets a court order removing his or her firearm ownership disability, which results from the adjudication or commitment.

### Retention of Firearms by Law Enforcement

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<sup>328</sup> S. 379.3581, F.S.

<sup>329</sup> SS. 775.082(3)(e) and 775.083(1)(c), F.S.

Under the provisions of the bill, during the 72-hour retention period, the agency may petition a court of competent jurisdiction to retain the firearm and ammunition for an additional 60 days. The agency must prove by clear and convincing evidence that the person presents a continuing credible threat of violence against another person. When considering such a petition, the court must consider all relevant factors, including, but not limited to:

- Whether the person has:
  - A history of threats, harassment, stalking, physical abuse, or violence.
  - A criminal history involving violence or the threat of violence.
  - Intentionally attempted to harm or intentionally harmed another person.
  - Threatened to harm, either orally or in writing, another person.
  - Used, or has threatened to use, any weapons such as firearms or knives in a violent manner.
  - Intentionally injured or killed an animal.
- The person's medical and mental health history.
- The person's school disciplinary history.
- Whether the person engaged in any other behavior or conduct that leads the law enforcement agency to have reasonable cause to believe that the respondent poses a significant danger of causing imminent injury to others.

If the court issues a temporary injunction permitting retention of the firearm and ammunition, agency must report the date and time of issuance and the person's identifying information, including his or her name, age, date of birth, and last known address, to FDLE to be included in the FCIC. A person may not own, possess or purchase a firearm while the temporary injunction is in effect.

At the end of the injunction, the agency must return each firearm and ammunition to the person. The agency may petition the court for one 60-day extension of the temporary injunction upon a showing by clear and convincing evidence that the person presents a continuing credible threat of committing violence against another person. The court shall consider all of the factors it is required to review for the initial injunction when deciding an extension of the temporary injunction.

The bill allows a person who is subject to a temporary injunction to petition the court to terminate the injunction if, by clear and convincing evidence, he or she proves they no longer present a credible threat of committing violence against another person. The petition to terminate may not be filed until 60 days after the person's release from involuntary examination.

The bill requires agencies to develop policies and procedures for seizing, storing, and returning firearms and ammunition.

#### Possession of Firearms by a Person Adjudicated Mentally Defective or Committed to a Mental Institution

Current law prohibits a person adjudicated mentally defective or committed to a mental institution from purchasing a firearm or obtaining a concealed weapon license. However, there is no prohibition against such a person possessing a firearm.

The bill extends existing firearm prohibitions to include possession of a firearm by a person adjudicated mentally defective or committed to a mental institution.

#### Crime Stoppers Trust Fund

Section 16.555, F.S. creates the Crime Stoppers Trust Fund within the Department of Legal Affairs. The bill authorizes grants to be awarded to fund student crime watch programs established pursuant to s. 1006.07(3).

#### Office of Safe Schools

The bill codifies the Office of Safe Schools (OSS) within the Department of Education and expands the duties and responsibilities of the office. The office serves as a central repository for best practices, training standards, and compliance oversight in all matters regarding school safety and security, including prevention efforts, intervention efforts, and emergency preparedness training. The bill requires the office to:

- establish and update as necessary a school security risk assessment tool for use by school districts and charter schools in conducting self assessments;
- provide ongoing professional development opportunities to school district personnel;
- provide a coordinated and interdisciplinary approach to providing technical assistance and guidance to school districts on safety and security and recommendations to address findings in a district schools' security risk assessment;
- develop and implement a School Safety Specialist Training Program for school safety specialists appointed by each district school superintendent;
- review and provide recommendations on security risk assessments;
- provide data analytic resources to school districts that facilitate the monitoring of social media activities to detect possible threats to student safety;
- collaborate with the Florida Department of Law Enforcement to develop and disseminate to participating schools awareness and education materials on the School Safety Awareness Program; and
- award grants to schools to improve the safety and security of school buildings based upon recommendations in security risk assessments.

The bill requires the DOE to contract with a third party security consultant to review and analyze the current security risk assessment tool and a sample of self-assessments conducted by school districts to determine the effectiveness of the recommendations produced by the self-assessment. The department must submit a report to the Executive Office of the Governor's Office of Policy and Budget, the chair of the Senate Committee on Appropriations, and the House of Representatives Appropriations Committee no later than January 1, 2019.

### School Safety Specialists

The bill establishes the School Safety Specialist Training Program, which must be based on national and state best practices on school safety and security and must include training modules in traditional and online formats. The office must award a certificate of completion to a school safety specialist who satisfactorily completes the training.

Each district school superintendent must designate a school administrator as a school safety specialist for the school district. The specialist must earn a certificate of completion of the school safety specialist training provided by the OSS within 1 year of appointment. The specialist is responsible for the supervision and oversight for all school safety and security personnel, policies, and procedures in the school district. In addition, each specialist must:

- review policies and procedures for compliance with state law and rules;
- provide the necessary training and resources to students and school district staff in matters relating to mental health first aid, emergency procedures, including active shooter training, and school safety and security;
- serve as the school district liaison with local public safety agencies and national, state, and community agencies and organizations in matters of school safety and security; and
- conduct a security risk assessment at each public school using the tool developed by the office.

The specialist, rather than the superintendent, must provide recommendations to the district school board based on findings from the security risk assessment. The district school board must receive the findings and any recommendations at a publicly noticed school board meeting. The specialist must then report the findings and school board action to the office within 30 days after the meeting.

In addition, each school safety specialist must coordinate with the appropriate public safety agencies that are designated as first responders to a school's campus to conduct a tour of the campus once every 3 years and provide recommendations related to school safety. The recommendations must be considered as part of the specialist's recommendations to the district school board.

### School District Discipline Policies

The bill revises requirements for district school board policies on student discipline by:

- providing that students must note, at the time of initial registration for school, referrals to mental health services the student has had;
- allowing the school board of a receiving school district to refer a student who was expelled from another district to mental health services which are defined as community mental health services, health care providers, and services provided under ss. 1006.04 and 1011.62(17); and
- requiring the code of student conduct to:
  - include policies for referring a student to such mental health services;
  - provide notice that a student who is determined to have brought a firearm or weapon to school, to a school function, or on school transportation may also be referred to mental health services in addition to being expelled or referred to the criminal or juvenile justice system; and
  - provide notice that any student who is determined to have made a threat or false report may be referred to mental health services, when appropriate.

The bill also requires a court to notify the appropriate district school superintendent of the name and address of any student it refers to mental health services within 48 hours of referral.

### Threat Assessment Teams

The bill requires each district school board to adopt policies for establishing threat assessment teams for each school, which must coordinate resources, assessment, and intervention with individuals whose behavior may pose a threat to the safety of students or school staff, consistent with model policies developed by OSS. The policies must include procedures for referrals to community mental health services or health care providers for evaluation or treatment, when appropriate.

A threat assessment team must include persons with expertise in counseling, instruction, school administration, and law enforcement. The team must identify school community members to whom threatening behavior should be reported and provide guidance to students, faculty, and staff for recognizing threatening or aberrant behavior that may represent a threat to the community, school, or self. Threat assessment teams must report quantitative data on its activities according to guidance developed by the OSS.

If a threat assessment team determines that a student poses a threat of violence or physical harm to self or others, the team must immediately report its determination to the district school superintendent or his or her designee. The superintendent, or designee, must then immediately attempt to notify the student's parent or guardian. The bill specifies that the notification procedures do not preclude school district personnel from acting immediately to address an imminent threat.

If school personnel suspects an immediate mental health or substance abuse crisis, they must follow policies established by the threat assessment team to engage behavioral health crisis resources. The bill specifies that behavioral health crisis resources must include mobile crisis teams and school resource officers trained in crisis intervention. It also requires them to provide emergency intervention and assessment, make recommendations, and refer a student with an immediate mental health or substance abuse crisis for appropriate services. School personnel must report all such situations and actions taken to the threat assessment team, which must contact the other agencies involved with the

student and any known service providers to share information and coordinate any necessary follow-up actions.

The bill authorizes a threat assessment team to obtain criminal history record information on a person it determines to pose a threat. The bill prohibits team members from disclosing criminal history record information or use any record beyond the purpose for which the original disclosure was made.

### School Safety Awareness Program

The bill requires the Florida Department of Law Enforcement (FDLE) to competitively procure a mobile suspicious activity reporting tool that allows students and the community to relay information anonymously concerning unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to appropriate public safety agencies and school officials. At a minimum, the department must receive reports electronically through the mobile suspicious activity reporting tool that is available on both Android and Apple devices.

The bill specifies that information received by the tool must be promptly forwarded to the appropriate law enforcement agency or school official. Law enforcement dispatch centers, school districts, schools, and other entities identified by the FDLE must be made aware of the program

### Emergency Drills and Procedures

The bill requires each school to establish model emergency management and preparedness procedures, in consultation with the appropriate public safety agencies, for active shooter and hostage situations and conduct such drills at least as often as other emergency drills. The emergency response policy must identify the individuals responsible for contacting the primary emergency response agency. The district school board must also establish a schedule to test the functionality and coverage capacity of all emergency communication systems and determine if adequate signal strength is available in all areas within the school's campus.

### School Resource Officers, School Safety Officers, and School Marshals

The bill requires each school board to develop partnerships with local law enforcement agencies to address the security needs of schools by examining the use of school resource officers, school safety officers and school marshals. The partnership must also examine the use of directed patrols before and after school and extra-curricular activities to enhance the presence of law enforcement and provide an atmosphere of safety and trust.

#### *School Marshal Program*

The bill authorizes each district school board to establish a school marshal program through an agreement with a local law enforcement agency. School employees who are appointed as school marshals by a local law enforcement agency must: hold a concealed weapons license, pass a psychological and drug test, and complete 132 hours of training in firearms, discretionary shooting, legal, defensive tactics, and active shooter. School marshals must also requalify every two years through four hours of firearms training and pass an annual fitness for duty assessment that meets or exceeds the physical abilities test conducted by the appointing law enforcement agency. The sheriff and chief of police must maintain documentation of weapon and equipment inspections, as well as the training, certification, inspection, and qualification records of each school marshal.

Each district school board may establish a school marshal program to allow a school employee to serve as a school marshal if appointed by the county sheriff or the chief of police of a municipal law enforcement agency.

A school marshal does not have powers of arrest and is appointed in support of approved school-sanctioned activities for purposes of s. 790.115.<sup>330</sup> The bill authorizes district school boards to enter into agreements with local law enforcement agencies. The agreement must require the school marshal to carry a firearm of the specific type and caliber he or she is qualified to carry which must be loaded only with frangible ammunition designed to disintegrate on impact for maximum safety and minimal danger to others. The school marshal must also be distinctly and visually identifiable to others during an active assailant incident. The bill also authorizes charter schools to establish a school marshals program subject to the same requirements as traditional public schools.

### Zero Tolerance

The bill revises zero tolerance provisions by limiting the use of alternatives to expulsion or referral to law enforcement to instances where the student receives mental health services, when appropriate, and when such alternatives do not pose a threat to school safety. The bill revises requirements related to zero tolerance agreements to include available mental health services.

### Mental Health Prevention and Treatment Services

#### *Mental Health Services for Students*

##### Mental Health Assistance Allocation

The bill creates the mental health assistance allocation within the FEFP to provide funds for school-based mental health programs as annually provided in the General Appropriations Act (GAA). The allocation will provide each school district at least \$100,000, with the remaining balance allocated based on each district's proportionate share of the state's total unweighted FTE student enrollment. Eligible charter schools are also entitled to a proportionate share of district funding.

At least 90 percent of a school district's allocation must be expended on:

- the provision of mental health assessment, diagnosis, intervention, treatment, and recovery services to students with one or more mental health or co-occurring substance abuse diagnoses and students at high risk of such diagnoses; and
- the coordination of such services with a student's primary care provider and with other mental health providers involved in the student's care.

The bill provides that allocated funds may not supplant funds that are provided for these purposes from other operating funds and may not be used to increase salaries or provide bonuses. The bill encourages school districts to maximize third-party health insurance benefits and Medicaid claiming for services where appropriate.

In order to receive allocation funds, a school district must develop and submit a detailed plan outlining the local program and planned expenditures to the district school board for approval. In addition, a charter school must annually develop and submit a detailed plan outlining the local program and planned expenditures of the funds in the plan to its governing body for approval. Once the plan is approved by the governing body, it must be provided to its school district for submission to the commissioner.

Each approved plan must be submitted to the commissioner by August 1 each year and must focus on delivering evidence-based mental health care treatment to children and:

- provide for mental health assessment, diagnosis, intervention, treatment, and recovery services;

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<sup>330</sup> Advisory Legal Opinion, Op. Att'y Gen. Fla. 2014-13 (2014), stating that "section 790.115, Florida Statutes, operates as an exemption from the prohibition against the possession of weapons and firearms on campus when authorized in support of approved school-sanctioned activities."

- coordinate services with primary care providers and other health providers involved in the student's care; and
- provide for the direct employment of service providers or a contract-based collaboration or partnership with local community mental health programs, agencies, or providers.

Beginning September 30, 2019, and by each September 30 thereafter, each school district must submit to DOE a final report on its program outcomes and its expenditures that must at least include the number of:

- students who receive screenings or assessments;
- students who are referred for services or assistance;
- students who receive services or assistance;
- parents or guardians notified; and
- school personnel who are trained to engage in the services, techniques, strategies, or programs identified in the plan.

### SEDNET Mental Health Services

The bill requires that the multiagency network, SEDNET, must:

- support and represent the needs of students in each school district in joint planning with fiscal agents of children's mental health funds, including the expansion of school-based mental health services, transition services, and integrated education and treatment programs;
- improve coordination of services for children with or at-risk of emotional/behavioral disabilities and their families by assisting multi-agency collaborative initiatives to identify critical issues and barriers of mutual concern and develop local response systems that increase home and school connections and family engagement;
- increase parent and youth involvement and development with local systems of care; and
- facilitate student and family access to effective services and programs for students with and at-risk of emotional/behavioral disabilities that include necessary educational, residential, and mental health treatment services, enabling these students to learn appropriate behaviors, reduce dependency, and fully participate in all aspects of school and community living.

### *Crisis Intervention Training*

The bill requires all school resource officers to receive crisis intervention training, to better equip them for responding to incidents involving students with mental health problems.

### *Mobile Crisis Teams*

The bill funds additional mobile crisis teams to serve areas of the state not currently served by such teams. The bill also addresses the use of mobile crisis teams. If school personnel believe that an immediate mental health or substance abuse crisis is occurring, they may engage a mobile crisis team as one of the behavioral health crisis resources that may be available to address that crisis.

### *CAT Teams*

Currently, CAT teams are only mentioned in GAA proviso. The bill codifies CAT teams in s. 394.495, F.S. It requires DCF to contract for CAT teams throughout the state through the MEs. Subject to appropriation, an individual CAT team must serve each of the counties or regions currently served by a CAT team and DCF must contract for additional teams to ensure CAT services are available in the remaining areas of the state.

The bill requires CAT teams to provide community-based behavioral health and support services to children 11 to 21 years of age who have serious behavioral health conditions, and are at risk for out-of-home placement as evidenced by:

- Repeated failures at less intensive levels of care;
- Having two or more hospitalizations; involvement with the Department of Juvenile Justice or multiple episodes involving law enforcement; or
- Poor academic performance or suspensions.

CAT teams may also serve children younger than 11 years of age who have serious behavioral health conditions if they display two or more of the characteristics for risk for out-of-home placement. Regardless of the age of the child or young adult, CAT teams must provide services that:

- Comprehensively address the therapeutic needs of the child or young adult using an integrated service delivery approach. If necessary, CAT teams must make referrals to specialized treatment and follow up to ensure services are provided.
- Engage the child or young adult and his or her family as active participants in all phases of treatment.
- Strengthen children’s and young adults’ families and support systems to assist them to live successfully in the community. To facilitate this, CATs must be available to the child or young adult and his or her family at all times.
- Coordinate with other key entities providing services and supports, such as their schools, the local educational multiagency network for severely emotionally disturbed students under s. 1006.04, the child welfare system, and the juvenile justice system. CATs must also coordinate with the managing entity in their service location.

#### *Mental Health First Aid Training*

The bill requires the DOE to implement mental health first aid training and continuing education in elementary, middle, and high schools. Beginning with the 2018-2019 school year, the bill requires DOE to establish a youth mental health first aid training program<sup>331</sup> to help school personnel identify and understand the signs of mental illness and substance use disorders and provide them the skills to help a person who is developing or experiencing a mental health or substance use problem.

The bill requires DOE to provide youth mental health first aid training to all personnel in elementary, middle, and high schools; the training must include, at a minimum:

- An overview of mental illnesses and substance use disorders and the need to reduce the stigma of mental illness;
- Information on the potential risk factors and warning signs of mental illness or substance use disorders, including, but not limited to, depression, anxiety, psychosis, eating disorders, and self-injury, and common treatments for those conditions, and how to assess those risks; and
- Information on how to engage at-risk students with the skills, resources, and knowledge required to assess the situation, and how to identify and encourage the student to use appropriate professional help and other support strategies including, but not limited to, peer, social, or self-help care.

The bill implements a “train-the-trainer” model to provide the youth mental health first aid training. It requires each district’s school safety specialist, or his or her designee(s), to become certified as a youth mental health first aid trainer. The MHFA “train-the-trainer” instructor certification course for Youth MHFA could be used to meet this requirement. Once certified, the school safety specialist, or his or her designee(s), must train all school personnel in the district who are required to have youth mental health first aid training.

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<sup>331</sup> DOE must select a national authority on mental health first aid to facilitate providing mental health first aid training, using a trainer certification model. The National Council and the MHFA are one authority and model that could satisfy this requirement. However, the bill does not require DOE to use the National Council or MHFA model; it could use other authorities or models, if available.

## The Marjory Stoneman Douglas High School Public Safety Commission

The incident of mass violence at Marjory Stoneman Douglas High School was preceded by multiple, repeated interactions between the shooter and law enforcement agencies, social services agencies, and schools, over many years. This history was characterized by a lack of communication and coordination, preventing these many entities from understanding the whole problem and taking action to prevent the mass violence incident.

In response to this problem, the bill creates the Marjory Stoneman Douglas High School Public Safety Commission (Commission)<sup>332</sup> within FDLE. The Commission is composed of 15 voting members and five nonvoting members.<sup>333</sup> The Governor will appoint five voting members to the Commission, including the chair; and President of the Senate and Speaker of the House of Representatives will each appoint five voting members to the Commission. Appointments must be made by April 30, 2018. The bill requires the Secretary of DCF, the Secretary of the Department of Juvenile Justice (DJJ), the Secretary of the Agency for Health Care Administration (AHCA), the Commissioner of Education, and the executive director of FDLE to serve as ex officio, non-voting members of the Commission.

The bill directs the Commission to meet, as necessary, to conduct its work at the call of the chair and at designated times and locations throughout the state. The bill permits the Commission to meet telephonically, or through other similar means.

### *Duties of the Commission*

The bill requires the Commission to investigate system failures in the Marjory Stoneman Douglas High School shooting, as well as previous other mass violence incidents in Florida, and to develop recommendations for system improvements. The Commission must analyze information and evidence about the Marjory Stoneman Douglas High School shooting and other mass violence incidents in this state. At a minimum, the duties of the Commission include:

- Developing a timeline of the incident, incident response, and all relevant events preceding the incident, with particular attention to all perpetrator contacts with local, state and national government agencies and entities and any contract providers of such agencies and entities.
- Investigating any failures in incident responses by local law enforcement agencies and school resource officers. This investigation includes:
  - Identifying existing policies and procedures for active assailant incidents and evaluating fidelity to them in the execution of incident responses.
  - Evaluating existing policies and procedures for active assailant incidents in comparison with national best practices.
  - Evaluating the extent to which any failures in policy, procedure, or execution contributed to an inability to prevent deaths and injuries.
  - Making specific recommendations for improving law enforcement and school resource officer incident response in the future.
- Investigating any failures in interactions with perpetrators preceding mass violence incidents. To do this, the Commission must:
  - Identify the history of interactions between perpetrators and government entities such as schools, law enforcement agencies, courts and social service agencies, and identify any failures to adequately communicate or coordinate regarding indicators of risk or possible threats.
  - Evaluate the extent to which any such failures contributed to an inability to prevent deaths and injuries.

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<sup>332</sup> Commission is defined in s. 20.03, F.S. as a body created by specific statutory enactment within a department, the office of the Governor, or the Executive Office of the Governor and exercising limited quasi-legislative or quasi-judicial powers, or both, independently of the head of the department or the Governor.

<sup>333</sup> All members of the Commission must serve without compensation, but will be reimbursed for their per diem and travel expenses pursuant to s. 112.061, F.S.

- Make specific recommendations for improving communication and coordination among entities with knowledge of indicators of risks or possible threats of mass violence in the future.
- Identify available state and local tools and resources for enhancing communication and coordination regarding indicators of risk or possible threats, including, but not limited to, the Department of Law Enforcement Fusion Center or the Judicial Inquiry System, and make specific recommendations for using such tools and resources more effectively in the future.

To carry out its duties, the bill allows the Commission to seek professional assistance from appropriate agencies of state government, as needed; the bill requires these agencies to provide assistance in a timely manner. Additionally, the bill requires the Department of Legal Affairs to, upon request, provide legal and investigative assistance to the Commission. Subject to appropriations, the bill also authorizes the Commission to hire staff, including a general counsel and staff experienced in investigations.

#### *Access to Information and Records*

The bill permits the Commission to request any information or records, including confidential or exempt information or records, which pertain to the Marjory Stoneman Douglas High School shooting or other prior mass violence incidents in Florida that the Commission is reviewing as part of its duties. Upon such a request, the bill requires that the commission be given access to information or records if they are necessary for the Commission to carry out its duties. The bill requires that information or records obtained by the Commission that are otherwise confidential or exempt retain their confidential or exempt status and prohibits the Commission from disclosing them.

#### *Subpoena and Investigative Powers*

The bill also gives the Commission the power to subpoena and investigate. It may issue subpoenas and other necessary process to compel the attendance of witnesses to testify before the Commission and to compel the production of any books, papers, records, documentary evidence, and other items, including confidential information, relevant to the performance of the duties of the commission or to the exercise of its powers. The chair or any other member of the Commission may administer all oaths and affirmations in the manner prescribed by law to witnesses who testify before the Commission; it may also delegate this authority to its investigators. The Commission may also delegate the authority to issue subpoenas to its chair, who in all events shall issue process on behalf of the Commission. Subpoenas issued by the commission shall run throughout the state, and the sheriffs<sup>334</sup> in the several counties shall make such service and execute all process or orders when required by the Commission.

Should any subpoenaed person refuse to obey a subpoena, the bill permits the Commission to seek judicial remedy. The Commission can make application to any circuit court of this state, which shall have jurisdiction to order the witness to appear, to produce evidence, or to give testimony touching on the matter in question, if so ordered. The court may punish a person who fails to comply with such an order as contempt.

#### *Annual Report*

The bill requires the Commission to submit an initial report on its findings and recommendations to the Governor, President of the Senate, and Speaker of the House of Representatives by January 1, 2019. The Commission may issue reports annually thereafter, through 2023.

The Commission sunsets and s. 943.687, F.S., is repealed on July 1, 2023.

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<sup>334</sup> The bill requires sheriffs to be paid as provided in s. 30.321, F.S., for executing process orders for the Commission.

**B. SECTION DIRECTORY:**

- Section 1: Provides a name for the act.
- Section 2: Amends s. 16.555, F.S., relating to Crime Stoppers Trust Fund; rulemaking.
- Section 3: Amends s. 30.09, F.S., relating to qualifications of deputies; special duties.
- Section 4: Amends s. 166.0495, F.S., relating to agreements to provide law enforcement services.
- Section 5: Amends s. 394.495, F.S., relating to child and adolescent mental health system of care; programs and services.
- Section 6: Amends s. 790.065, F.S., relating to sale and delivery of firearms.
- Section 7: Amends s. 780.0655, F.S., relating to purchase and delivery of firearms; mandatory waiting period; exceptions; penalties.
- Section 8: Creates s. 790.0656, F.S., relating to seizure of firearms from persons subject to involuntary examination.
- Section 9: Creates s. 790.0657, F.S., relating to possession of firearms or ammunition prohibited.
- Section 10: Creates s. 790.222, F.S., relating to bump-fire stocks prohibited.
- Section 11: Creates s. 943.082, F.S., relating to School Safety Awareness Program.
- Section 12: Creates s. 943.687, F.S., relating to Marjory Stoneman Douglas High School Public Safety Commission.
- Section 13: Creates s. 1001.212, F.S., relating to Office of Safe Schools.
- Section 14: Amends s. 1002.32, F.S., relating to development research (laboratory) schools.
- Section 15: Amends s. 1006.04, F.S., relating to educational multiagency services for students with severe emotional disturbance.
- Section 16: Amends s. 1006.07, F.S., relating to district school board duties relating to student discipline and school safety.
- Section 17: Amends s. 1006.08, F.S., relating to district superintendent duties relating to student discipline and school safety.
- Section 18: Amends s. 1006.12, F.S., relating to school resource officers, school safety officers, and school marshals.
- Section 19: Amends s. 1006.13, F.S., relating to policy of zero tolerance for crime and victimization.
- Section 20: Amends s. 1011.62, F.S., relating to funds for operation of schools.
- Section 21: Creates s. 1012.584, F.S., relating to continuing education and inservice training for youth mental health first aid.
- Section 22: Provides an appropriation.
- Section 23: Provides an appropriation.
- Section 24: Provides an appropriation.
- Section 25: Provides an appropriation.
- Section 26: Provides an appropriation.
- Section 27: Provides an appropriation.
- Section 28: Provides an appropriation.
- Section 29: Provides an appropriation.
- Section 30: Provides an appropriation.
- Section 31: Provides an appropriation.
- Section 32: Provides an appropriation.
- Section 33: Provides an appropriation.
- Section 34: Provides an appropriation.
- Section 35: Provides an appropriation.
- Section 36: Provides an appropriation.
- Section 37: Provides an appropriation.
- Section 38: Provides an effective date of upon becoming law.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

**1. Revenues:**

The bill does not appear to impact state government revenues.

2. Expenditures:

To the extent that persons are arrested for, charged with, and convicted of, selling a firearm to a person under 21 years old or a violation of the bump-fire stock ban, this bill will have an indeterminate fiscal impact on state government as these cases are processed through the criminal justice system.

Filing initial petitions for a temporary injunction to retain firearms and ammunition for 60 days and extensions of the temporary injunction by law enforcement may increase the workload of the state court system.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to impact local government revenues.

2. Expenditures:

To the extent that persons are arrested for, charged with, and convicted of, selling a firearm to a person under 21 years old or a violation of the bump-fire stock ban, this bill will have an indeterminate fiscal impact on local governments as these cases are processed through the criminal justice system.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent 18 through 21 year olds may no longer purchase firearms, other than handguns, through retail sales from licensed dealers, the bill may have a negative impact on the firearms industry.

D. FISCAL COMMENTS:

The bill appropriates a total of \$200 million in recurring funds from the General Revenue Fund and \$200 million in nonrecurring funds from the General Revenue Fund. The bill provides appropriations for multiple purposes as summarized in the chart below and as described in more detail in the narrative following the chart.

#	Dept	Issue	General Revenue Fund (in rounded millions)			Bill Section
			Recur	NR	Total	
1	DOE	School Resource Officers	98	0	98	27
2	DOE	School Hardening Grants	0	96	96	29
3	DOE	Marshal Program	1	67	67	25
4	DOE	Other school security issues	0	1	1	28,26,35
5		<b>Subtotal School Safety</b>	<b>98</b>	<b>164</b>	<b>262</b>	
6	DCF	CAT teams	10	0	10	32
7	DOE	Mental health first aid training for SROs	1	6	7	34
8	DCF	Mobile Crisis Teams	18	0	18	33
9	DOE	Mental Health Assistance Allocation	67	0	67	22
10		<b>Subtotal Mental Health Funding</b>	<b>96</b>	<b>6</b>	<b>102</b>	
11	DOE	MSD Replace 9th grade building	0	29	29	24
12	DOE	MSD Memorial/Death Benefits	0	1	1	23,36
13		<b>Subtotal MSDHS Specific Issues</b>	<b>0</b>	<b>30</b>	<b>30</b>	
14	DOE/DLE	Data Analytics/Mobile application	5	0	5	37,30
15	DLE	MSDHS Public Safety Commission	1	0	1	31
16		<b>Total</b>	<b>200</b>	<b>200</b>	<b>400</b>	

1. Mental Health Services \$67,237,286 million in recurring funds

The bill appropriates \$67,237,286 in recurring funds to the Department of Education in the Aid to Local Governments Grants and Aids – Florida Education Finance Program to fund the mental health assistance allocation established in the bill.

2. School Marjory Stoneman Douglas High School Memorial - \$1 million in nonrecurring funds

The bill appropriates \$1 million in nonrecurring funds for the design and construction of a memorial honoring those who lost their lives on February 14, 2018, at Marjory Stoneman Douglas High School in Broward County. The bill requires the department to collaborate with the students and faculty of Marjory Stoneman Douglas High School, the families of the victims, the Broward County School District, and other relevant entities of the Parkland, Florida, community on the design and placement of the memorial. The Legislature has previously funded memorials at a cost of approximately \$250,000 per memorial. Given the need to complete design and site preparation work, an additional amount is being provided.

3. Marjory Stoneman Douglas High School - Replace 9th Grade Building – \$28,575,900 in nonrecurring funds

The bill appropriates \$28,575,900 in nonrecurring funds to the Department of Education for the purpose of replacing Building 12, as listed in the Florida Inventory of School Houses, at Marjory Stoneman Douglas High School in Broward County.

The January 2019 high school student station cost (this cost includes legal, administrative, architecture & engineering fees, site improvement, contract costs, and furniture and equipment) of \$31,751 was applied to an estimated 900 9th grade students at the school. A 10-year average of 9th grade enrollment plus growth yielded the 900 estimated students.

4. School Marshal Program - \$500,000 recurring funds; \$66,663,480 in nonrecurring funds;

The bill appropriates the sum of \$500,000 in recurring funds and \$66,663,480 in nonrecurring funds to the Department of Education for purposes of implementing the school marshal program established in

the bill. The funds shall be used for reimbursing screening- and training-related costs and providing a one-time stipend of \$500 to school marshals who participate in the school marshal program.

There are 3,679 elementary, middle, high, and combination schools in Florida, this includes charter schools. The policy is to have an average of 10 school marshals per school for a total of 36,790 marshals. A per school marshal cost of \$1,812 was calculated which includes: (a) \$233 for a criminal background and drug screening, (b) \$230 for a psychological exam, (c) \$762 for the 132-hour school marshal training, (d) \$97 for the concealed weapon permit and (e) \$500 stipend. Applying the per school marshal cost to the total needed equals \$66,163,480 in nonrecurring funds. The \$500,000 in recurring funds is the assumed annual retraining cost for attrition.

5. Office of Safe Schools - \$344,393 in recurring funds and 3 FTE

The bill appropriates \$344,393 in recurring funds and an additional 3 full-time equivalent positions to DOE to address the expanded responsibilities and duties of the Office of Safe School which is codified in law within the bill. These positions include 1 project director and 2 program specialists and the funding provides \$244,393 for salary and benefits and \$100,000 for expenses to include travel.

6. School Resource Officers – \$97,500,000 in recurring funds

The bill appropriates \$97,500,000 in recurring funds for the Safe Schools Allocation of the Florida Education Finance Program. Each school district must use these funds exclusively for hiring or contracting for school resource officers pursuant to s. 1006.12, Florida Statutes.

There are approximately 1,500 school resource officers according to the most recent Safe School Allocation Expenditure Report. Using the report, staff calculated a statewide average of \$65,000 per school resource officer for salary and benefits. The goal is to double the number of school resource officers which using the calculated statewide average would cost \$97,500,000.

7. Active Shooter Training - \$100,000 in recurring funds

The bill appropriates \$100,000 in recurring funds for the Office of School Safety to competitively procure an existing active shooter training course. The bill requires each district school superintendent to designate a school safety specialist and for that specialist to obtain a certificate of completion of the Department of Education's Office of Safe Schools' School Safety Specialist Training Program. A required component of the training program is active shooter training.

8. School Hardening Grants – \$95,985,620 million in nonrecurring funds

The bill appropriates the sum of \$95,985,620 million in nonrecurring funds to the Department of Education to implement a grant program that will provide awards to school districts to fund in whole or in part the fixed capital outlay costs to improve the physical security of school buildings as identified from the school district's 2017-2018 security risk assessment completed pursuant to s. 1006.07(6)

The current Safe Schools Allocation is approximately \$64 million in the Florida Education Finance Program (FEFP). Using this as a starting point, additional funds were provided to total the \$97 million for the Department of Education to implement a grant program.

9. Mobile Suspicious Activity Reporting Tool - \$100,000 in recurring funds and \$300,000 in nonrecurring funds

The bill appropriates \$100,000 in recurring funds and \$300,000 in nonrecurring funds to the Department of Law Enforcement to competitively procure for the development or acquisition of a mobile suspicious activity reporting tool.

10. Marjory Stoneman Douglas High School Public Safety Commission - \$600,000 in recurring funds; \$50,000 in nonrecurring

The bill appropriates the recurring sum of \$600,000 and the nonrecurring sum of \$50,000 to the Department of Law Enforcement to fund the operations of the Marjory Stoneman Douglas High School

Public Safety Commission. The bill also authorizes five full-time equivalent positions, with associated salary rate of 345,000.

11. Community Action Treatment (CAT) Teams - \$9.8 million in recurring funds

The bill provides a recurring appropriation of \$9.8 million in recurring general revenue funds to the Department of Children and Families to establish 13 additional CAT teams. Each team will receive \$750,000 annually consistent with the funding amount for the existing teams. There are currently 27 CAT teams funded in the Department of Children and Families in Fiscal Year 2017-18. CAT teams are not currently established in all counties. The bill will provide funding to establish 3 CAT teams in areas where none exist as well as 10 additional ones based on Florida's estimated population. It is estimated that 5.6 million individuals do not have access to CAT Teams. The existing teams serve a population area of approximately 566,000 individuals. Based on this ratio, 10 additional teams would need to be established.

12. Mobile Crisis Teams - \$18.3 million in recurring funds

The bill provides an appropriation of \$18.3 million to the Department of Children and Families to establish an additional 30 Mobile Crisis Teams statewide. There are currently 13 Mobile Crisis Teams funded through the Department of Children and Families. Mobile Crisis Teams, on average, can provide services for a population area of approximately 476,000 individuals. Based on a Florida population estimate of 20 million residents, 30 additional teams will need to be established to provide statewide coverage. Mobile Crisis Teams will receive approximately \$610,000 each.

13. Mental Health First Aid Training- \$500,000 in recurring funds; \$6.2 million in nonrecurring funds

The bill provides an appropriation of \$500,000 in recurring and \$6.2 million in nonrecurring funds to implement the training requirements as directed pursuant to s. 1012.584, Florida Statutes. Mental Health First Aid will utilize a Train the Trainer model. Larger school districts will need more than one trainer per district. The seven school districts with more than 100,000 students were allocated 3 training positions. The 22 school districts with less than 100,000 FTE but more than 25,000 FTE were allocated two training positions. The remaining districts received one training position per district. In total, 110 district staff will be trained.

The 110 School District staff will attend a five-day training course costing approximately \$200,000. Costs include travel for staff to attend the training as well as costs to pay the contractor to provide the training. The 110 staff trained will be responsible for training all instructional and non-instructional staff in each district. Training materials for district staff are estimated at \$20 per employee. It is estimated that approximately 325,000 school district staff would receive training.

14. Security Assessment of Schools - \$1 million in nonrecurring funds

The Department of Education currently has a security risk assessment tool known as the Florida Safe Schools Assessment Tool and school districts are required to use this tool for the completion of a self-assessment. The bill provides a nonrecurring appropriation of \$1 million for the Department of Education to competitively procure a contract to review and analyze this tool and a sample of self-assessments conducted by the districts and to provide recommendations for updates and/or enhancements. The Legislature has previously funded such reviews and studies for \$1 million.

15. Teacher and Administrator Death Benefits -\$18,321 in recurring funds and \$225,000 in nonrecurring funds

The bill appropriates \$18,321 in recurring funds and \$225,000 in nonrecurring funds for the payment of death benefits for the three Marjory Stoneman Douglas High School staff members who lost their lives on February 14, 2018 as authorized in s. 112.1915, F.S.

16. Data Analytics - \$5 million in recurring funds

The bill provides \$5 million in recurring funds to the Department of Education to competitively procure for the development or acquisition of the data analytic resources as required by the bill. The Legislature has previously appropriated funds to other state agencies for procuring data analytic tools

and resources. These amounts have been between \$2.5 million and \$3 million. Given the scope and size of Florida's public school system (3,690 schools), it is necessary to provide an additional amount.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

##### 2. Other:

###### *Second Amendment*

The Second Amendment of the U.S. Constitution provides, "a well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed." In *District of Columbia v. Heller*<sup>335</sup>, the United States Supreme Court (Supreme Court) held that inherent in the Second Amendment is a right to self-defense, untethered to service in a militia. Thus, certain laws regulating personal firearm ownership, such as the handgun ban and safe storage laws at issue in *Heller*, may violate that right.

Central to the Supreme Court's analysis in striking down the District of Columbia (D.C.) laws at issue in *Heller* was the idea that a complete ban of handguns, which are commonly used for protection of the home and family, infringed on the right to self-defense. Similarly, D.C.'s safe storage law required a resident to keep a lawfully owned firearm unloaded and disassembled or bound by a trigger lock or similar device. The Supreme Court struck down this law for failing to provide a self-defense exception, which made it impossible for citizens to use their firearms for the lawful purpose of self-defense.

The Supreme Court noted, however, that the right to self-defense is not unlimited and does not convey a "right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose." For example, possession of a short-barreled shotgun is not protected by the Second Amendment. Regulations are subject to a "text, history, and tradition" analysis under *Heller*; however, many courts in practice apply variations on strict and immediate scrutiny tests, weighing the governmental interest against the individual right.

###### *Florida Constitution*

Article I, Section 8 of the Florida Constitution provides that: "the right of the people to keep and bear arms in defense of themselves and of the lawful authority of the state shall not be infringed, except that the manner of bearing arms may be regulated by law."

###### *3-Day Waiting Period*

The Florida Constitution requires a 3-day waiting period between the sale and delivery of a handgun. The provision does not apply to the trade in of another handgun or the holder of a concealed weapon permit. The constitution also authorizes a county to impose a 3- to 5-day waiting period, excluding weekends and legal holidays, between the sale and delivery of other firearms within the county by ordinance. Art. I, Sec. 8 and Art. VIII, Sec. 5(b), Fla. Const.

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<sup>335</sup> *District of Columbia v. Heller*, 554 U.S. 570 (2008)

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**